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A

COLLECTION OF STATUTES

CONNECTED WITH THE

General Administration of the Law;

ARRANGED ACCORDING TO THE ORDER OF SUBJECTS:

WITH

NOTES,

By Sir WILLIAM DAVID EVANS, Knt.
LATE RECORDER OF BOMBAY.

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A

COLLECTION

OF THE

STATUTES,

&c. &c. &c.

PART V.—CLASS VII.

LARCENY—ROBBERY—ASSAULT WITH INTENT TO ROB—CHILD STEALING.

[No. I.] 33 Henry VI. c. 1.—A Remedy for Executors against Servants that imbezzle their Master's Goods after his death.

[Inserted Pt. III. Cl. XIII. No. 9.]

[No. II.] 21 Henry VIII. c. 7.—Servants imbezzling their Master's Goods to the value of forty Shillings, or above, shall be punished as felons.

No. II. 21 H. VIII. c. 7.

'WHERE before this time divers, as well noblemen as other the King's subjects, have upon confidence and trust delivered unto their servants, their caskets, and other jewels, money, goods, and chattels, safely to be kept to the use of their said masters or mistresses, and after such delivery the said servants have withdrawn themselves, and gone away from their said masters or mistresses, with the said caskets, jewels, money, goods, and chattels, or part thereof, to the intent to steal the same, and defraud their said masters or mistresses thereof, and sometime being with their said masters or mistresses, have converted the said jewels, money, and other chattels, or part thereof, to their own use, which misbehaviour so done was doubtful in the common law, whether it were felony or not; and by reason thereof the aforesaid servants have been in great boldness to commit such or like offences:' Be it therefore enacted, ordained and established by the King our Sovereign Lord, by the assent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by authority of the same, That all and singular such servants (1), to whom any such caskets, jewels, money, goods or chattels, by his or their said masters or mistresses (2), shall from henceforth so be delivered to keep (3), that if any such servant or servants withdraw him or them from their said masters and mistresses, and go away with the said caskets, jewels, money, goods or other chattels, or any part thereof, to the intent to steal the same, and defraud his or their said masters or mistresses thereof, contrary to the trust and confidence to him or them put by his or

(1) To bring a case within the statute, the offender must be a servant both at the time of the delivery and the stealing. The case of a delivery to one afterwards taken as a servant, and a subsequent taking away, is not within the statute; 1 Hawk. ch. 33. § 12; E. P. C. ch. 16. § 11.

(2) A delivery by another servant is the same as a delivery by the master; 1 Hawk. ch. 33. § 13; 1 Hale, 668; 1 E. P. C. ch. 16. § 12.

(3) This is held not to apply to the case of a servant receiving rents, &c. or to sell goods, departing with the money; 1 Hawk. ch. 33. § 13; 1 Hale, 505; dubit. 1 Hale, 668.—The converting of money delivered to buy goods, held not within the statute; Watson's case, cor. Heath J. at Worcester, 1788, E. P. C. ch. 16. § 12.—Q. If not a larceny at common law? vi. ibid; and Lavender's case, E. P. C. ch. 16. § 15.

No. II. 21 H. VIII. c. 7.

their said masters or mistresses, or else being in the service of his said master or mistress, without assent or commandment of his masters or mistresses, he imbezil the same caskets, jewels, money, goods, or chattels, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal it, that if the said caskets, jewels, money, goods, or chattels, that any such servant shall so go away with, or which he shall imbezil with purpose to steal it, as is aforesaid, be of the value of xl *s.* or above, that then the same false, fraudulent, and untrue act or demeanour, from henceforth shall be deemed and adjudged felony; and he or they so offending, to be punished, as other felons be punished for felonies committed, by the course of the common law (1).

This statute shall not extend to an apprentice, or one within 18 years of age.

II. Provided always, That this Act, or any thing therein contained, shall not in anywise extend, or be prejudicial to any apprentice or apprentices, nor to any person within the age of eighteen years, going away with his or their masters goods or jewels, or otherwise converting the same to his or their own uses, during the time of their apprenticeship, or being within the age of eighteen years, but that every apprentice or apprentices, such person or persons being within the said age, doing or offending contrary to this present Act, shall be, and stand in like case as they and every of them were before the making of this Act; the same Act to continue and endure unto the next Parliament.

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(1) By stat. 27 Hen. VIII. made perpetual 28 Hen. VIII. c. 2, but repealed 1 Mar. st. 1. ch. 1. ante, Cl. II. No. 21, clergy was taken away from this offence. The present statute was revived by 5 Eliz. c. 10, post, but not the statute taking away clergy. Doubts have been entertained whether the offence is liable to transportation; but such doubts do not appear to be well founded; vide E. P. C. ch. 16. § 10. But the statute is now not much resorted to, as most of the cases within the scope of it would be held felony at common law. As to which, see the several cases cited E. P. C. ch. 16. § 14, 15.

V. [No. III.] 23 Henry VIII. c. 1.—An Act concerning Convicts in Petit Treason, Murder, &c *.

No. III. 23 H. VIII. c. 1.

Clergy taken from several persons which do commit divers offences.

III. BE it therefore enacted by the King our Sovereign Lord, and the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by authority of the same, That no person nor persons, which hereafter shall happen to be found guilty after the laws of this land, for any manner of petit treason, or for any wilful murder of malice prepensed, or for robbing of any churches, chapels, or other holy places, or for robbing of any person or persons in their dwelling-houses, or dwelling-place, the owner or dweller in the same house, his wife, his children or servants then being within, and put in fear and dread by the same, or for robbing of any person or persons in or near about the highways, or for wilful burning of any dwelling-houses, or barns wherein any grain of corns shall happen to be, nor any person or persons being found guilty of any abetment, procurement, helping, maintaining, or counselling, of or to any such Petit treasons, murders, or felonies, shall from henceforth be admitted to the benefit of his or their clergy, but utterly be excluded thereof, and suffer death in such manner and form, as they should have done for any the causes or offences abovesaid, if they were no clerks; such as be within holy orders, that is to say, of the orders of sub-deacon, or above, only except.

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* At length infrà.

[No. IV.] 25 Hen. VIII. c. 3.—For such as stand mute, &c.

No. IV. 25 H. VIII. c. 3.

Clergy not allowed to those who stand

'WHERE at your Parliament holden at *Westminster*, in the three and twentieth year of your most noble reign, among other things it was ordained, established, and enacted, That no person or persons which thereafter should happen to be found guilty, after the laws of this land, for any manner of petit treason, or of any wilful murder of malice prepensed, or for robbing of any churches, chapels, or other holy places, or for robbing of any person or persons in their dwelling-houses or dwelling-place, the

No. IV.
25 H. VIII. c. 3.

'owner or dweller in the same house, his wife, his children, or servants 'then being within, and put in fear and dread by the same, or for robbing 'of any person or persons in or near about the highway, or for wilful burning of any dwelling-houses or barns, wherein any grain or corn shall happen to be; nor any person or persons being found guilty of any abetment, 'procurement, helping, maintaining, or counselling of or to any such petit 'treason, murthers, or felonies, should from thenceforth be admitted to the 'benefit of his or their clergy, but utterly be excluded thereof, and suffer 'death in such manner and form, as they should have done for any the 'causes or offences aforesaid, if they were no clerks; such as be within holy 'orders, that is to say, of the orders of sub-deacon or above, all only except, as more at large appeareth by the said Act. And forasmuch as the 'said Act extendeth only to such persons as be found guilty after the due 'course of the laws of this land, divers and many great errant robbers, 'murtherers, burglars and felons, that do offend and commit divers and 'many petit treasons, robberies, burglaries and felonies, contrary to the 'tenor of the said Act, perceiving and clearly understanding, by the words 'of the same statute and Act, that they shall not lose the benefit and advantage of their clergy, unless they be found guilty after the due course of 'the law, upon their arraignment of and upon the said felonies, robberies, 'and other offences before said, so by them done and committed, by reason 'whereof, divers and many of the same robbers and felons, upon their arraignment of the same robberies and felonies, upon their indictments 'against them stand mute, and sometimes challenge peremptorily over the 'number of twenty, or else will not directly answer to the same indictments whereupon they be so arraigned, according to the order of the law. 'And for that these especial cases be not expressly comprised and contained 'within the letter of the same statute, it is necessary and expedient that 'the same case be clearly and definitively expounded and declared by authority of this present Parliament. And whereas also divers and many 'felons and robbers, that commit and do divers and many great heinous 'robberies and burglaries in one shire, and convey the spoil and robbery 'into any other shire, and there be taken, indicted, and arraigned upon 'felony and felonious stealing of the same goods in the same other shire, 'than there where the same robberies or burglaries were done and committed, and not upon the same robbery nor burglary, for that it was not done nor committed in the same shire where they be so indicted and arraigned, and by reason thereof the same misdemeanors, felons, robbers, 'and burglars have and enjoy the privilege and advantage of their clergy, 'to the great hurt and loss of the King's prerogative, and great boldness of 'such offenders.'

mute, or who do make peremptory challenge.

Certain defects in the statute of 23 H. 8. c. 1.

II. In consideration whereof, be it enacted by the King our Sovereign Lord, the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by authority of the same, That every person and persons that is or hereafter shall be indicted of petit treason, wilful burning of houses, murther, robbery, or burglary, or other felony, according to the tenor and meaning of the same statute, and thereupon arraigned, and do stand mute of malice or froward mind, or challenge peremptorily above the number of twenty, or else will not or do not answer directly to the same indictment and felony whereupon he is so arraigned, shall from henceforth lose the benefit and privilege of his or their clergy, in like manner and form as if he had directly pleaded to the same petit treason, murther, robbery, burglary, or other felony whereupon he is so arraigned, not guilty, and thereupon had been found guilty after the laws of the land.

Cases in which the benefit of clergy shall not be allowed.

III. And by the same authority be it further enacted, That if any person or persons hereafter be indicted of felony for stealing of any goods or chattels in any county within this realm of *England*, and thereupon arraigned and be found guilty, or stand mute of malice, or challenge peremptorily above the number of twenty persons, as is aforesaid, or will not upon his said arraignment directly answer to the same felony, that then the same person and persons so arraigned and found guilty, or stand mute of malice, or challenge peremptorily above the number of twenty persons, or will not directly answer to the law, shall lose and be put from the benefit of their

No. IV. 25 H. VIII. c. 3.

A man attainted where the goods were carried which were stolen in another county.

clergy, in like manner and form as they should have been, if they had been indicted and arraigned, and found guilty in the same county where the same robbery or burglary was done or committed, if it shall appear to the justices before whom any such felons or robbers be arraigned, by evidence given before them, or by examination, that the same felonies, whereupon they be so arraigned, had been such robberies or burglaries in the same shire where such robberies or burglaries were committed or done, by reason whereof they should have lost the benefit of their clergy by force of the said statute, in case they had been found guilty thereof in the same shire where such robberies or burglaries were so committed or done.

[No. V.] 1 Edward VI. c. 12.—An Act for the Repeal of certain Statutes concerning Treasons and Felonies *.

No. V. 1 Edw. VI. c. 12.

The offenders in these felonies shall be excluded of their clergy and sanctuary by 2 and 3 Ed. VI. c. 33.

Persons stealing one horse are ousted of clergy, &c. * by No. 6, post.

Clergy allowed in all other cases of felony.

Sanctuaries extinct.

X. AND it is further ordained and enacted by the authority aforesaid, That no person or persons that heretofore hath been, or at any time hereafter shall be, in due form of the laws, attainted or convicted of murder of malice prepensed, or of poisoning of malice prepensed; or of breaking of any house by day or by night, any person being then in the same house where the same breaking heretofore hath been or hereafter shall be committed, and heretofore hath been or hereafter shall be thereby put in fear or dread; or of or for robbing of any person or persons in the highway, or near to the highway; or for felonious stealing of horses, geldings or mares (1); or of felonious taking of any goods out of any parish church or other church or chapel; or being indicted or appealed of any of the same offences, and thereupon found guilty by verdict of twelve men, or shall confess the same upon his or their arraignment, or will not answer directly, according to the laws of this realm, or shall stand wilfully, or of malice mute, shall not be admitted to have or enjoy the privilege or benefit of his clergy or sanctuary, but shall be put from the same: And that in all other cases of felony, other than such as are before mentioned, all and singular person and persons, which after the first day of *March* next coming shall be arraigned or found guilty upon his or their arraignment, or shall confess the same, or stand mute, in form aforesaid, or will not answer directly in form abovesaid, shall have and enjoy the privilege and benefit of his or their clergy, the liberty and privilege of sanctuary, in like manner and form as he or they might or should have done before the four and twentieth day of *April* in the first year of the reign of the said late King *Henry* the Eighth.

* Inserted ante, Class II.

(1) The stat. 37 Hen. VIII. c. 8. § 2. mentioned horse, gelding, mare, foal, or filly, Sir E. H. East states, that as the words foal or filly are dropped in the Acts of Edw. VI. it has been questioned by some, whether they extend to a foal or filly, so as to oust clergy? But yet (he adds) it seems that the words of those Acts are plain and general enough to include them; and it is refining rather too much to argue those words into doubt, from the over nicety of a prior statute which is set aside; E. P. C. ch. 16. § 47.

[No. VI.] 2 and 3 Edward VI. c. 33.—A Bill for Horse and Horse Stealers.

No. VI. 2 & 3 E. VI. c. 33.

Whosoever stealeth an horse, &c. shall lose his clergy.

'FORASMUCH as it is and hath been ambiguous and doubtful upon the words mentioned in one Act of Parliament made in the first year of 'the reign of our Sovereign Lord the King, whether that any person being 'in due form of the laws found guilty, or otherwise attainted or convicted, 'for felonious stealing of one horse, gelding or mare, ought to be admitted 'to have or enjoy the privilege and benefit of his clergy and sanctuary:' Therefore it is declared and enacted by the King our Sovereign Lord, and the Lords and Commons, in this present Parliament assembled, and by the authority of the same Parliament, That all and singular person and persons, feloniously taking or stealing any horse, gelding or mare, shall not be admitted to have or enjoy the privilege or benefit of his or their clergy or sanctuary, but shall be put from the same, in like manner and form as

No. VI. 2 and 3 Edward VI. c. 33.

though he or they had been indicted or appealed for felonious stealing of two horses, two geldings or two mares of any other, and thereupon found guilty by verdict of twelve men, or confessed the same upon his or their arraignment, or stand wilfully or of malice mute. [37 H. VIII. c. 8.]

[No. VII.] 5 and 6 Edward VI. c. 9.—An Act for the taking away of the Benefit of the Clergy from certain Offenders.

No. VII. 5 and 6 Edward VI. c. 9.

'WHERE at the Parliament holden at *Westminster* by prorogation the twenty-third year of the reign of the late King of famous memory, King *Henry* the Eighth, it was among other things then and there enacted, established and ordained by authority of the same Parliament, That no person or persons, which after that time should happen to be found guilty, after the laws of this realm, for any manner petty treason, or for any wilful murther of malice prepensed, or for robbing of any churches, chapels or other holy places, or for robbing of any person or persons in their dwelling-houses or dwelling-places, the owner or dweller in the same house, his wife, his children or servants then being within, and put in fear or dread by the same, or for robbing of any person or persons in or near about the highways, or for wilful burning of any dwelling-houses or barns wherein any grain or corn should happen to be, nor any person or persons being found guilty of any abetment, procurement, maintaining or concealing of any or to any such petty treason, murthers or felonies, should from thenceforth be admitted to the benefit of his or their clergy, but utterly to be excluded thereof, and suffer death in such manner and form as they should have done for any the causes or offences aboyesaid, if they were no clerks; such as be within holy orders, that is say, of the orders of sub-deacon, or above, all only excepted, as by the same act among other things more plainly appeareth; which Act was made to endure until the last day of the next Parliament; and after that, at the session of the Parliament holden at *Westminster* by prorogation in the thirty-second year of the reign of the said late King, the same Act with other Acts was made to continue for ever.

No person robbing any house, &c. shall have the benefit of his clergy. 23 H. 8. c. 1.

32 H. 8. c. 3.

II. 'Sithen the making of which Statute it hath been doubted, that if such robberies and felonies have been committed and done in dwelling-houses and dwelling-places, the owner or dweller in the same house, his wife, his children or servants, being then put in fear or dread by the same, shall not lose the benefit of their clergy, if the offenders therein be found guilty by the laws of this realm, unless the same robbery or felony be committed and done in the very chamber, house or place where the owner or dweller in the same house, his wife, children or servants, shall happen to be or lie at the time of such robbery or felony committed and done, and put in fear and dread, although the owner and dweller in such house and houses, his wife, his children or servants, at the time of such robbery and felony committed and done, were or lay in other places within the precinct of the same dwelling-houses, nigh unto the house or place where such robbery and felony shall happen to be done: Or if it happen that the owner or dweller within the same house where such robbery and felony shall happen to be done, his wife, children or servants to be asleep at the time of such robbery and felony committed and done, although the same robbery were done in the chamber or place where the owner or dweller in the same house, his wife, children or servants then lay, the offenders being found guilty thereof according to the laws of the land, should not lose the benefit and advantage of their clergy.

Three several doubts and questions moved upon the stat. of 23 H. 8. c. 1.

III. 'And where also it hath been in question and doubted, that if such robberies and felonies happen to be committed and done in any booth or booths, tent or tents in any fair or market, the owner of the same, his wife, children or servants happening to be within the same at the time of the committing of such felonies, and put in fear and dread, the offenders therein being found guilty after the laws of this realm, should not lose the benefit of their clergy:'

No. VII. 5 and 6 Edward VI. c. 9.

Burglary, the owner, &c. being in another part of the house or asleep.

IV. For the true declaration and explanation of the same doubts or questions before recited, be it enacted, ordained and established by the King our Sovereign Lord, the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, That if it happen any person or persons to be found guilty according to the laws of this realm, for robbing (1) of any person or persons after the first day of *May* next ensuing, in any part or parcel of their dwelling-houses or dwelling-places, the owner or dweller in the same house, or his wife, his children or servants (2) being then within the same house or place where it shall happen the same robbery and felony to be committed and done, or in any other place within the precinet of the same house or dwelling-place (3); that such offenders shall in no wise be admitted to their clergy, whether the owner or dweller in the same house, his wife or children then and there being, shall be waking or sleeping.

Burglary in a tent or booth in a fair or market.

23 H. 8. c. 1.

V. And that no person or persons which after the said first day of *May* shall happen to be found guilty, after the laws of this realm, of and for robbing any person or persons in any booth or tent, in any fair or market, the owner, his wife, his children or servants, or servant, then being within the same booth or tent, shall not from henceforth be admitted to the benefit of his or their clergy, but utterly be excluded thereof, and suffer death in such manner and form as is before mentioned in the said Act made in the said xxiii. year of the reign of the same late King, for robberies and felonies committed and done in dwelling-houses and dwelling-places, the owner or dweller in the same, his wife, children or servants then being within the same, and put in fear and dread, without having any respect or consideration whether the owner or dweller in such booths and tents, his wife, children or servants, being in the same booths or tents at the time of such robberies and felonies committed, shall be sleeping or waking.

(1) Under this Statute a breaking is necessary; 2 Hawk. c. 33. § 92; E. P. C. ch. 16. § 72.

(2) This does not extend to a sojourner or lodger; 2 Hawk. ch. 33. § 92. See 3 W. and M. c. 9. where the provision is more general.

(3) If the goods do not amount to 12*d*. the case will only amount to petit Larceny; for the Statute does not alter the offence, but only takes away clergy where it was before allowed, as in grand larceny; semble, 1 Hale, 531; E. P. C. ch. 16. § 70.—This principle was consistently acted upon in the construction of 8 Eliz. ch. 4, post.

[No. VIII.] 5 and 6 Edward VI. c. 10.—An Act for the Avoiding of Clergy from divers Persons.

No. VIII. 5 and 6 Edward VI. c. 10.

Such as rob in one shire, and fly into another, shall not have their clergy. 25 H. 8. c. 3. 23 H. 8. c. 1.

'WHERE in the Parliament holden at *Westminster* upon prorogation the fifteenth day of *January* in the twenty-fifth year of the reign of our late Sovereign Lord King *Henry* the Eighth, it is recited, That at the Parliament holden at *Westminster* in the twenty-third year of the reign of the said late King, amongst other things it was ordained, established and enacted, That no person or persons, which after that time should happen to be found guilty, after the laws of this land, of any manner of petty treason, or for any wilful murther of malice prepensed, or for robbing of any churches, chapels or other holy places, or for robbing of any person or persons in their dwelling-houses or dwelling-place, the owner or dweller in the same house, his wife, his children or servants then being within, and put in fear and dread by the same, or for robbing of any person or persons in or near about the highways, or for wilful burning of any dwelling-houses or barns, wherein any grains of corn should happen to be, nor any person or persons being found guilty of any abetment, procurement, helping, maintaining or concealing of or to any such petty treason, murthers or felonies, should from thenceforth be admitted to the benefit of his or their clergy, but should utterly be excluded thereof, and suffer death in such manner and form as they should have done for any the causes or offences abovesaid, if they were no clerks; which Act extendeth but only where such offender was convicted in such county or place where any such offence was so committed and done, and not where he or they did such

No. VIII. 5 and 6 Edward VI. c. 10.

'offence in one county, and were taken with the mainer in another county. 'Wherefore it was considered, That forasmuch as divers and many felons 'and robbers, that commit and do divers and many great heinous robberies 'and burglaries in one shire, and convey the spoil and robbery into any 'other shire, and there be taken, indicted and arraigned of felony, of the 'felonious stealing of the same goods, in the same other shire than where 'the same robberies or burglaries were done and committed, and not of 'the same robbery nor burglary, for that it was not done or committed in 'the same shire where they be so indicted and arraigned, and that by rea- 'son thereof such felons, robbers, and burglarors had and enjoyed the pri- 'vilege and advantage of their clergy.'

II. For redress whereof, it was enacted, in the said Parliament holden in the said xxv. year of the said late King, That if any person or persons, after that time, after such robbery or burglary by him or them done in any one county, should be indicted of felony for stealing of any goods or chattels in any other county within this realm, and thereupon arraigned and found guilty, or stand mute of malice, or challenge peremptorily above the number of xx persons, or would not, upon his or their said arraignment, directly answer to the same felony, That then the same person and persons so arraigned and found guilty, or standing mute of malice, or challenging peremptorily above the number of xx persons, or that would not directly answer to the law, should lose and be put from the benefit of his or their clergy, in like manner and form as they should have been if they had been indicted, arraigned, and found guilty in the same county where such robbery or burglary as is aforesaid, was done or committed, if it should appear to the justices before whom any such felons or robbers should be arraigned by evidence given before them, or by examination, that the same felons and burglarors should have been put from their clergy, in case they had been indicted, arraigned, and found guilty, in the same county where the same robberies or burglaries were committed or done, as in the same statute, made in the said xxv. year, among other things, more plainly appeareth.

III. 'And where, in the Parliament holden at *Westminster*, the iv day of '*November*, in the first year of the reign of our Sovereign Lord the King 'that now is, it is ordained and enacted, amongst other things, That no 'person or persons that before that time had been, or at any time after 'should be, in due form of the laws, attainted or convicted of murther of 'malice prepensed, or of poisoning of malice prepensed, or of breaking of 'any house by day or by night, any person being then in the same house 'where the same breaking had been, or after that time, should be commit- 'ted, being put in fear or dread; or of or for robbing of any person or per- 'sons in the highway, or near to the highway, or for felonious stealing of 'horses, geldings, or mares; or of felonious taking of any goods out of any 'parish church, or other church or chapel; or being indicted or appealed 'of any of the same offences, and thereupon found guilty by verdict of xii. 'men, or should confess the same upon his or their arraignment, or would 'not answer directly, according to the laws of this realm, or should stand 'wilfully or of malice mute, should not be admitted to have or enjoy the 'privilege or benefit of his or their clergy or sanctuary, but should be put 'from the same.

Wherein the stat. made 1 Ed. VI. c. 12. doth take away the force of the stat. of 25 H. VIII. c. 3.

'IV. And that in all other cases of felony, other than such as be before 'mentioned, all and singular person and persons, which, after the first day 'of *March* then next following, should be arraigned, or found guilty upon 'his or their arraignment, or should confess the same, or stand mute in 'form aforesaid, or would not answer directly in form abovesaid, should 'have and enjoy the privilege and benefit of his or their clergy, and the 'liberty and privilege of sanctuary, in like manner and form as he or they 'might or should have done before the xxiv. day of *April*, in the first year 'of the reign of the said late King *Henry* the Eighth, as in the said Act, 'made in the said first year, among other things, more plainly appeareth: 'By reason of which article and clause contained in the said Act, made in 'the said first year, the said statute, made in the said xxv. year of the said 'late King, which did put such felons and burglarors from their clergy,

No. VIII. 5 and 6 Edward VI. c. 10.

'that do such offence in one county, and after are taken, with the goods 'stolen, in another county, and there indicted, arraigned, and found guilty, 'was made void: By reason whereof, divers and many persons, that sithen 'the said first year have committed such robberies and burglaries in one 'county, and after have been taken with the mainer in another county, 'and there indicted, arraigned, and found guilty, have had and enjoyed 'their clergy, which they could not have had in case the said Act, made in 'the said xxv. year, had stood in force, to the great bolding and comfort 'of such offenders:' For redress whereof from henceforth to be had, be it enacted by the authority of this present Parliament, That the said Act, made in the said xxv. year, touching the putting of such offenders from their clergy, and every article, clause or sentence contained in the same, touching clergy, shall from henceforth, touching such offences from henceforth to be committed and done, stand, remain, and be in full strength and virtue, in such manner and form as it did before the making of the said Act, made in the said first year of the reign of our said Sovereign Lord the King that now is; any clause, article, or sentence, comprised in the said Act, made in the said first year, to the contrary thereof notwithstanding.

The stat. of 25 H. VIII. c. 3. shall stand in force, notwithstanding a clause comprised in the stat. of 1 Ed. VI. c. 12.

[No. IX.] 4 and 5 Philip and Mary, c. 4.—An Act, that Accessaries in Murders and divers Felonies shall not have the benefit of Clergy.

[Inserted Class IV. No. 15.]

[No. X.] 5 Elizabeth, c. 10.—An Act reviving a Statute made *Anno* 21 *H.* 8. touching Servants imbezzling their Masters' Goods.

No. X. 5 Elizabeth, c. 10.

21 H. VIII. c. 7.

'WHEREAS, in the Parliament holden at *London* the third day of *November*, in the one and twentieth year of the reign of the late King of 'most famous and worthy memory, King *Henry* the Eighth, and from 'thence adjourned to *Westminster*, and there holden and continued, by 'divers prorogations, unto the dissolution thereof, it was ordained and enacted, amongst other things, That all and singular servants to whom any 'caskets, jewels, money, goods, or chattels, by his or their master or masters, should from thenceforth be delivered to keep, that if any such servant or servants withdraw him or them from their said masters or mistresses, and go away with the said caskets, jewels, money, goods, or chattels, or any part thereof, to the intent to steal the same, and defraud his 'or their said masters or mistresses thereof, contrary to the trust and confidence to him or them put by his or their masters or mistresses; or else, 'being in service of his said masters or mistresses, without the assent or 'commandment of his masters or mistresses, embezzle the same caskets, 'jewels, money, goods or chattels, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal it, that if the said 'caskets, jewels, money, goods or chattels that any such servant shall go 'away with, or which he shall embezzle with purpose to steal it as is aforesaid, be of the value of forty shillings or above; that then the same false, 'fraudulent, and untrue act and demeanour, should from thenceforth be 'deemed and adjudged felony, and that he or they so offending, should be 'punished as other felons, for felony committed, by the course of the common law, as by the said Act, amongst other things therein contained, more 'at large it doth and may appear.

1 Mar. sess. 1. c. 1.

II. 'Which said Act, in the Parliament begun and holden at *Westminster*, 'the fifth day of *October*, in the first year of the reign of the late Queen '*Mary*, and there continued to the one and twentieth day of the same month, 'that is to say, in the first session of the same Parliament, by the general 'words of one Act then and there made, intituled, *An Act repealing certain Treasons, Felonies, and Præmunire*, was from thenceforth utterly repealed and made void.

No. X. 5 Elizabeth, c. 10.

A reviver of the statute of 21 H. VIII. c. 7. whereby it is made felony for a servant to imbezil his master's goods to the value of xl.s. or above.

III. 'And forasmuch as, sithence the repeal of the same, the said Act is 'thought necessary for the commonwealth of this realm;' be it therefore enacted by our Sovereign Lady the Queen's Majesty, with the assent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, That the said Act, made in the one and twentieth year, and every clause, article, branch, sentence and provision therein contained, be from henceforth revived, and put in due execution, according to the intent and meaning thereof, and from thenceforth shall stand good, endure and continue for ever. [27 H. VIII. c. 17.]

[No. XI.] 8 Elizabeth, c. 4.—An Act to take away the Benefit of Clergy from certain Offenders for Felony.

No. XI. 8 Elizabeth, c. 4.

He that taketh away privily from the person of another money or goods, shall not have his clergy, &c.

The impudent boldness of cut-purses and pick-purses.

'WHERE a certain kind of evil-disposed persons, commonly called cut-purses or pick-purses, but indeed, by the laws of this land, very fe- 'lons and thieves, do confeder together, making among themselves, as it 'were, a brotherhood or fraternity of an art or mystery, to live idly by the 'secret spoil of the good and true subjects of this realm; and as well at 'sermons and preachings of the word of God, and in places and time of 'doing service and common prayer in churches, chapels, closets, and ora- 'tories, and not only there, but also in the prince's palace, house, yea and 'presence, and at the places and courts of justice, and at the times of mi- 'nistration of the laws in the same, and in fairs, markets, and other assem- 'blies of the people, yea, and at the time of doing of execution of such as 'been attainted of any murder, felony, or other criminal cause, ordained 'chiefly for terror and example of evil-doers, do, without respect or regard 'of any time, place, or person, or of any fear or dread of God, or any law 'or punishment, under the cloak of honesty, by their outward apparel, 'countenance, and behaviour, subtilly, privily, craftily and feloniously take 'the goods of divers good and honest subjects from their persons, by cut- 'ting and picking their purses, and other felonious sleights and devices, to 'the utter undoing and impoverishing of many:'

II. Be it therefore enacted by the authority of this present Parliament, That no person or persons which hereafter shall happen to be indicted or appealed for felonious taking of any money, goods, or chattels from the person of any other, privily without his knowledge, in any place whatsoever, and thereupon found guilty by verdict of twelve men, or shall confess the same upon his or their arraignment, or will not answer directly to the same, according to the laws of this realm, or shall stand wilfully or of malice or obstinately mute, or challenge peremptorily above the number of twenty, or shall be upon such indictment or appeal outlawed, shall from henceforth be admitted to have the benefit of his or their clergy, but utterly be excluded thereof, and shall suffer death in such manner and form as they should if they were no clerks (1).

Where one shall be arraigned for a former offence, having his clergy for a latter.

III. 'And also, whereas divers persons do ofttimes commit and do divers 'and sundry detestable murders, heinous robberies and felonies, and other 'capital offences, for the which clergy is not allowable by the laws and 'statutes of this realm, and, after the same offences so done, either fly out 'of the county, or other parts of this realm, into the parts beyond the 'seas, or keep themselves secret in other places, where they are not known 'for a great time, and after happen to commit some other felony, for the 'which they may have their clergy; and being arraigned for the same, may 'have their clergy to them allowed, and thereupon committed to the cus- 'tody of the ordinary, according to the law and custom of this realm, the 'former offence, wherein clergy is not grantable, being not then known; 'and so by that means cannot after be impeached for the said other horri-

(1) I have thought it proper to insert this provision, although repealed by stat. 48 Geo. III. ch. 129, post, as shewing the progressive course of the law with respect to the several kinds of larceny.

No. XI. 8 Elizabeth, c. 4.

'ble and great offences, by the law and custom of this realm, to the great 'encouraging of offenders using such practices, of foreknowledge and set 'purpose for their discharge of the same:'

IV. For reformation whereof, be it further enacted by the authority aforesaid, That every person or persons which shall hereafter, upon his and their arraignment for any felony, be admitted to the benefit of his clergy by the laws of this realm, and delivered to the ordinary for the same, and shall make his due purgation for the same offence or offences whereupon he was so admitted to his clergy, and shall, before the same admission to his clergy, have committed any other such offence, whereupon clergy, by the laws or statutes of this realm, is not allowable, and not being thereof before indicted and acquitted, convicted or attainted, or pardoned, shall and may be indicted or appealed for the same, and thereupon put to answer, and ordered and used in all things, according to the laws and statutes of this realm, in such like manner and form as though no such admission of clergy had been; any law, custom, or usage to the contrary notwithstanding.

[No. XII.] 18 Elizabeth, c. 7.—An Act to take away Clergy from the Offenders in Rape or Burglary, and an Order for the Delivery of Clerks convict without Purgation.

[Inserted ante, Cl. V. No. 10.]

[No. XIII.] 31 Elizabeth, c. 4.—An Act against the Imbezzling of Armour, Habiliments of War and Victual.

No. XIII. 31 Eliz. c. 4.

Imbezzling the Queen's ordnance, armour or victuals, to the value of twenty shillings, provided for soldiers, shall be felony.

BE it enacted by the authority of this present Parliament, That if any person or persons having at any time hereafter the charge or custody of any armour, ordnance, munition, shot, powder or habiliments of war, of the Queen's Majesty's, her heirs or successors, or of any victuals provided for the victualling of any soldiers, gunners, mariners or pioneers, shall for any lucre or gain, or wittingly, advisedly, and of purpose, to hinder or impeach her Majesty's service, imbezzel, purloin or convey away any of the said armour, ordnance, munition, shot or powder, habiliments of war, or victuals, to the value of twenty shillings at one or several times; That then every such offence shall be judged felony, and the offender or offenders therein to be tried, proceeded on, and suffer as in case of felony (1).

Within what time the offender shall be impeached. No corruption of blood nor forfeiture of the inheritance of lands or dower for this felony.

II. Provided always, and be it enacted by the authority aforesaid, That none shall be impeached for any offence against this statute, unless the same impeachment be prosecuted or begun within the year next after the offence done: And that this Act, nor any thing therein contained, nor any attainder or attainders of any person or persons for any offence made felony by this Act, shall in any wise extend to or be adjudged, interpreted or expounded, to make the offender or offenders to forfeit or lose any lands, tenements or hereditaments any longer than only during his or their life or lives, or to make any corruption of blood to any the heir or heirs of any such offender or offenders, or to make the wife of any such offender to lose or forfeit her dower, or title of dower, of or in any lands, tenements or hereditaments, or her action or interest to the same; any thing in this Act contained, or any attainder or attainders hereafter to be had for any offence made felony by this Act to the contrary notwithstanding: And that such person and persons as shall be impeached for any offence made felony by this estatute, shall by virtue of this Act be received and admitted to make any lawful proof that he can, by lawful witness or otherwise, for his discharge and defence in that behalf; any law to the contrary notwithstanding. [Enforced by 22 Car. II. c. 5.]

The defendant may bring proof for his discharge.

(1) But persons having a bare charge may be guilty of felony at Common Law, by stealing to any amount. See Thorne's case, 2 E. P. C. ch. 16. § 53.

[No. XIV.] 31 Elizabeth, c. 12.—An Act to avoid Horse stealing.

[Inserted Pt. III. Cl. XII. No. 3.]

No XIV. 31 Eliz. c. 12.

V. AND be it further enacted by the authority aforesaid, That after twenty days after the end of this session of Parliament, not only all accessaries before such felony done, but also all accessaries after (1) such felony, shall be deprived and put from all benefit of their clergy, as the principal by statute heretofore made is or ought to be.

An accessary to a horse-stealer shall not have his clergy.

(1) This only extends to accessaries at Common Law; not to mere receivers; Foster, 373; 2 East, 616.

[No. XV.] 39 Elizabeth, c. 15.—An Act that no Person robbing any House in the Day-time, although no Person be therein, shall be admitted to have the Benefit of his Clergy.

No. XV. 39 Eliz. c. 15.

'WHEREAS of late years divers lewd and felonious persons understanding that the penalty of the robbing of houses in the day-time (no person being in the house at the time of the robbery) is not so penal, as to commit or do a robbery in any house, any person being therein at the time of the robbery; which hath and doth embolden divers lewd persons to watch their opportunity and time to commit and do many heinous robberies, in breaking and entering divers honest persons' houses, and especially of the poorer sort of people, who by reason of their poverty are not able to keep any servant, or otherwise to leave any body to look to their house, when they go abroad to hear divine service, or from home to follow their labour to get their living, which is to the hindrance and loss of good subjects, and the utter impoverishing of many poor widows, sole women, and other people:'

II. Be it therefore enacted by our Sovereign Lady the Queen's most excellent Majesty, the Lords Spiritual and Temporal, and the Commons, of this present Parliament assembled, That if any person or persons after the end of this present session of Parliament shall be found guilty, and convicted by verdict, confession or otherwise, according to the laws of this realm, for the felonious taking away, after the feast of *Easter* now next ensuing, in the day-time (1), of any money, goods or chattel, being of the value of five shillings or upwards, in any dwelling-house or houses, or any part thereof, or any out-house or out-houses, belonging and used to and with any dwelling-house or houses (2), although no person (3) shall be in the said house or out-houses, at the time of such felony committed; then such person and persons shall not be admitted to the benefit of his or their clergy, but shall be utterly excluded thereof.

He shall not have his clergy that robbeth a house in the day-time of the value of five shillings.

[No. XVI.] 22 Charles II. c. 5.—An Act for taking away the Benefit of Clergy from such as steal Cloth from the Rack, and from such as shall steal or imbezil his Majesty's Ammunition and Stores.

No. XVI. 22 Ch. II. c. 5.

'WHEREAS many evil-disposed persons have of late more frequently than in former times used and practised the cutting of cloth and other woollen manufactures in the night-time off from the racks or tenters where the said cloth is put for the drying thereof, and feloniously steal

Enforced by 1 Geo. 1. st. 2. c. 25. sec. 11. 15 G. 2. c. 27.

(1) If the offence is committed in the night, so that it would amount to burglary, it is not within this statute; 1 Hale, 525. B.; E. P. C. ch. 16. § 77.

(2) By relation to the preamble, there must be a breaking to bring a case within the statute; but such a breaking as would constitute burglary is sufficient; E. P. C. ch. 16. § 75.—Whether a person present and assisting is a principal within the Act? Q. Ibid.

(3) It must be alledged and proved that no person was in the house; 1 Hale, 525. B.; E. P. C. ch. 16. § 77.

No. XIV. 22 Ch. II. c. 5. 31 Eliz. c. 4.

'and carry away the same, to the utter undoing and impoverishing of many 'clothiers, and the great hindrance of the trade of clothing:

II. 'And whereas by an Act made in the one and thirtieth year of the 'reign of the late Queen *Elizabeth*, it is amongst other things enacted, That if 'any person having the charge or custody of any armour, ordnance, muni-'tion, shot, powder, or habiliments of war of the said Queen's, her heirs or 'successors, or of any victuals provided for the victualling of any soldiers, 'gunners, mariners, or pioneers, shall for any lucre or gain, or willingly, 'advisedly, and of purpose to hinder or impeach her Majesty's service, 'imbezil, purloin, or convey away any the same armour, ordnance, muni-'tion, shot, or powder, habiliments of war, or victuals to the value of 'twenty shillings, at one or several times, that then every such offence shall 'be adjudged felony, and the offender therein to be proceeded on, and 'suffer as in case of felony; unto the committing of which several offences 'many persons are the more emboldened, in respect that in those cases the 'benefit of clergy is allowed by law:

Persons stealing cloth from the rack, or imbezilling his Majesty's stores to the value of twenty shillings and thereof found guilty, shall be excluded from the benefit of clergy. 31 Eliz. c. 4.

III. Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and the authority thereof, That no person or persons who shall, from and after the five and twentieth day of *May*, in the year of our Lord one thousand six hundred and seventy, be indicted for felonious cutting and taking, stealing or carrying away of any cloth or other woollen manufactures from the rack or tenter in the night-time, or for any offence committed against the said recited Act made in the said one and thirtieth year of Queen *Elizabeth*, or shall feloniously steal or imbezil any of his Majesty's sails, cordage, or any other his Majesty's naval stores, to the value of twenty shillings, and be thereupon found guilty by verdict of twelve men, or shall confess the same upon his or their arraignment, or will not answer directly to the same according to the laws of this realm, or shall stand wilfully or of malice and obstinately mute, or challenge peremptorily above the number of twenty, or shall be upon such indictment outlawed, shall from and after the said five and twentieth day of *May* not be admitted to have the benefit of his or their clergy, but utterly be excluded thereof, and shall suffer death in such manner and form as they should if they were no clerks.

Judges may reprieve and transport them.

IV. Provided always, and be it further enacted by the authority aforesaid, That it shall and may be lawful for the judges or justices of the Court before whom such offender shall be arraigned and condemned, at their discretion, to grant a reprieve for the staying of execution of such offender, and to cause such offender to be transported to any of his Majesty's plantations beyond the seas, there to remain for the space of seven years, to be accounted from the time of such transportation, and during all that time there to be kept to labour: And if such offender shall refuse to be so transported, or after such transportation shall return or come again into this kingdom of *England*, or the dominion of *Wales*, or town of *Berwick upon Tweed*, within the time aforesaid, that then, and in every such case, the person so returning shall be put to execution upon the judgment so given and pronounced against him.

Penalty for refusing to be transported, or afterwards to return.

[No. XVII.] 3 William and Mary, c. 9.—An Act to take away Clergy from some Offenders, and to bring others to Punishment.

No. XVII. 3 W. & M. c. 9.

'FORASMUCH as divers wicked and ill-disposed persons are encou-'raged to commit robberies upon men's persons, and in their houses, 'and other offenders, by the privilege, as the law now is, of demanding 'the benefit of their clergy:' Be it therefore enacted by the King's and Queen's most excellent Majesties, and by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all and every person or persons that shall at any time from and after the first day of *March*, in the year of our Lord one thousand six hundred ninety-one,

Any person convict of robbing a dwelling-house

rob any other person (1), or shall feloniously take away any goods or chattels (2), being in any dwelling-house, the owner or any other person being therein, and put in fear (3), or shall rob (4) any dwelling-house in the day-time, any person (5) being therein, or shall comfort, aid, abet, assist (6), counsel, hire, or command any person or persons to commit any of the said offences, or (7) to break any dwelling-house, shop, or warehouse, thereunto belonging, or therewith used, in the day-time, and feloniously take away any money, goods, or chattel, of the value of five shillings or upwards, therein being, although no person shall be within such dwelling-house, shop, or warehouse, or shall counsel, hire, or command any person to commit any burglary, being thereof convicted or attainted, or being indicted thereof shall stand mute, or will not directly answer to the indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the jury, shall not have the benefit of his or their clergy.

wherein there is any or no person, &c. or standing mute, shall lose his clergy.

II. And be it further enacted by the authority aforesaid, That if any person or persons whatsoever be indicted of any offence, for which, by virtue of any former statute, he or they are excluded from having the benefit of his or their clergy, if he or they had been thereof convicted by verdict or confession, if he or they stand mute, or will not answer directly to the felony, or shall challenge peremptorily above the number of twenty (8) persons returned to be of the jury, or shall be outlawed thereupon, shall not be admitted to the benefit of his or their clergy.

Persons indicted for a crime of which being convict they would not have their clergy, if they stand mute, &c. shall not have it.

III. And be it further enacted by the authority aforesaid, That if any person or persons hereafter be indicted of felony for stealing of any goods or chattel in any county (9) within this realm of *England*, dominion of *Wales*, or town of *Berwick-upon-Tweed*, and thereof be convicted or attainted, or upon his or their arraignment shall stand mute, or will not directly answer to the indictment, or shall challenge peremptorily above the number of twenty persons returned to be of the jury, he or they shall be totally excluded from having the benefit of his or their clergy, if it appear upon evidence or examination before the justices, that the said goods or chattel were taken by robbery or burglary, or in any other manner, in any other county (10), whereof if such person or persons had been convicted by a jury of the said other county, he or they are (11) excluded, by virtue of this or any other Act, from having the benefit of this or their clergy.

So in a wrong county, &c.

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(1) This statute is more general than 1 E. VI. c. 12. § 12. which confines the description of the offence to the robbing any person in or near the highway; E. P. C. ch. 16. § 138.

(2) The better opinion seems to be, that the taking must amount to grand larceny in respect of value, unless done in the presence of some person, so as to amount to robbery; E. P. C. ch. 16. § 70.

(3) The indictment must alledge a putting in fear *by the prisoners*; R. *v.* Etherington and Brook, E. P. C. ch. 16. § 71.

(4) There must be a breaking, such as in the night would constitute burglary; but it is not necessary to alledge violence to the persons in the house; E. P. C. ch. 16. § 72. and authorities there cited.

(5) This is more general than stat. 5 and 6 Edward VI. c. 9. supra, which only applies to the cases of the owner, his wife, children or servants being within the house; E. P. C. ch. 16. § 72.

(6) Q. Whether a person present and assisting can be charged as a principal, or must be expressly indicted as an aider and abettor, under this Act; 2 Hale, 346; Foster, 330; E. P. C. ch. 16. § 68. 73. 75. But see Rex *v.* Towle, 2 Hawk. 466. (on 53 Geo. III. c. 58.); Rex *v.* Royce, 4 Bur. 2073. (on stat. 1 Geo. st. 2. c. 5.) See the last class, and the Coalheavers' case, Leach, case 35. (on 9 Geo. c. 42. for shooting) from which it would appear to follow as a general rule, that persons present and assisting may, in all cases not affected by a very particular penning of the statute enacting the offence, be charged as principals.

(7) It seems that the statute, having ousted the accessaries before of clergy, must necessarily, and by implication, oust the principals. See 2 Hale, 346; Fost. 330; E. P. C. ch. 16. § 68. 73. 76.

(8) The course now is merely to disallow the challenges.

(9) The goods which the party has in the county where convicted must exceed the value of 12*d.*; as otherwise he can only have judgment for petty larceny; and the statute does not create a new felony. See E. P. C. ch. 16. § 157.

(10) As to the mode of charging or proving the fact of robbery, &c. in another county, in respect of which the offender is to be ousted of clergy, see E. P. C. ch. 16. § 157.

(11) This does not extend to cases where clergy is excluded by subsequent statutes; E. P. C. ch. 16. § 157.

No. XVII. 3 W. and M. c. 9.

Buyers of stolen goods reputed accessaries to felony.

IV. 'And forasmuch as thieves and robbers are much encouraged to 'commit such offences, because a great number of persons make it their 'trade and business to deal in the buying of stolen goods:' Be it therefore enacted by the authority aforesaid, That if any person or persons shall buy or receive any goods or chattel that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, he or they shall be taken and deemed an accessary or accessaries to such felony after the fact, and shall incur the same punishment, as an accessary or accessaries to the felony after the felony committed (1).

Stealing goods from lodgings felony.

V. 'And whereas it is a frequent practice for idle and disorderly persons 'to hire lodgings with an intent to have an opportunity to take away, im-'bezil, or purloin the goods and furniture being in such lodgings(2):' Be it therefore enacted and declared (3) by the authority aforesaid, That if any person or persons shall take away, with an intent to steal, imbezil, or purloin, any chattel, bedding, or furniture, which by contract or agreement he or they are to use, or shall be let to him or them to use, in or with such lodging (4), such taking, imbezilling, or purloining, shall be to all intents and purposes taken, reputed, and adjudged to be larceny and felony, and the offender shall suffer as in case of felony.

Women convict of crimes for which men have their clergy, upon prayer punished as men.

By 4 and 5 W. and M. c. 24. sect. 15. women to have clergy but once.

VI. 'And whereas by the law of this realm, women convicted of felony 'for stealing of goods and chattel of the value of ten shillings and up-'wards, and for other felonies, where a man is to have the benefit of his 'clergy, are to suffer death:' Be it therefore enacted and declared by the authority aforesaid, That where a man being convicted of any felony for which he may demand the benefit of his clergy, if a woman be convicted for the same or like offence, upon her prayer to have the benefit of this statute, judgment of death shall not be given against her upon such conviction, or execution awarded upon any outlawry for such offence, but shall suffer the same punishment as a man should suffer, that has the benefit of his clergy allowed him in the like case; that is to say, shall be burnt in the hand by the gaoler in open Court, and further be kept in prison for such time as the justices in their discretion shall think fit, so as the same do not exceed one year's imprisonment.

Where a person has had his clergy in another county, clerk of the crown, &c. shall certify it.

VII. 'And forasmuch as such men who have once had their clergy, and 'such women who shall have once the benefit of this statute, may happen 'to be indicted for an offence committed afterwards in some other county:' Be it therefore enacted, That the clerk of the crown, clerk of the peace, clerk of the assizes, where such man or woman shall be convicted, shall at the request of the prosecutor, or any other in their Majesties' behalf, certify a transcript, briefly and in few words containing the effect and tenor

(1) This, with the other provisions respecting stolen goods, will form the subject of the following class.

(2) In Rivers's case, 1 Hawk. ch. 33. § 10. it was doubted whether a lodger purloining furniture was guilty of larceny; and in Rex v. Meares, 1 Sho. 50, 1 W. and M. it was ruled that he was not. But Q. Whether the contrary would not now be held, on the ground of the possession still continuing in the owner of the house?

(3) Sir E. H. East says, that although this is a declaratory Act, it must be construed with reference to the preamble, which recites that it was "a practice to hire lodgings, with intent," &c.; E. P. C. ch. 16. § 28. But it has been held, in many cases, that the general operation of the enacting part of a clause should not be controlled by the preamble stating only a limited ground of complaint; although certainly there are cases the contrary way.

(4) An indictment was for stealing from a lodging-house. The prisoner took the entire house and furniture, and agreed to make good every thing which was missing; and the case was ruled not to be within the Act, which was meant to apply to the case where the owner had the possession of the house. It was also thought that the agreement to make good what was missing took the case out of the statute; Palmer's case, E. P. C. ch. 16. § 26; Leach, case 284. An indictment for stealing "the goods and chattels being *in* a certain lodging room in the dwelling house of T. N., there situate, let by contract by the said T. N. to the said defendant, and to be used by the said defendant with the lodging aforesaid"—was sufficient; though objected that it was not stated that *the* goods were let at the time they were stolen; Burnell's case, E. P. C. ch. 16. § 26. —The indictment must state by and to whom the lodgings were let; Pope's case, ibid.—It has been frequently held, that an indictment could not be maintained on this Act against a feme covert, taking the lodgings with her husband.

No. XVII. 3 W. and M. c. 9.

of every indictment and conviction of such man or woman, of his having the benefit of the clergy, or her having the benefit of this statute, and addition of every such person or persons, and the certainty of the felony and conviction, to the judges and justices in such other county where such man or woman shall be indicted, which certificate being produced in Court shall be a sufficient proof that such man hath before had the benefit of his clergy, and that such woman hath had the benefit of this statute. (Made perpetual by 6 and 7 W. III. cap. 14. § 1).

No. XVIII. 4 William and Mary, c. 8.—An Act for encouraging the apprehending of Highwaymen.

No. XVIII. 4 W. and M. c. 8.

'WHEREAS the highways and roads within the kingdom of *England*, and dominion of *Wales*, have been of late time more infested with 'thieves and robbers than formerly, for want of due and sufficient en- 'couragement given, and means used for the discovery and apprehension 'of such offenders, whereby so many murders and robberies have been 'committed, that it is become dangerous in many parts of the nation for 'travellers to pass on their lawful occasions, to the great dishonour of the 'laws of this realm, and the government thereof:' For remedy whereof,

Reward to him that shall take an highwayman.

II. Be it enacted by the King's and Queen's most Excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the five and twentieth day of *March*, one thousand six hundred ninety and three, all and every person and persons, who shall apprehend and take one or more such thieves or robbers, and prosecute him or them so apprehended and taken, until he or they be convicted of any robbery committed in or upon any highway, passage, field, or open place, shall have and receive from the sheriff or sheriffs of the county where such robbery and conviction shall be made and done, without paying any fee for the same, for every such offender so convicted the sum of forty pounds, within one month after such conviction and demand thereof made, by tendering a certificate to the said sheriff or sheriffs, under the hand or hands of the judge or justices before whom such felon or felons shall be convicted, certifying the conviction of such felon or felons for a robbery done within the county of the said sheriff or sheriffs, and also that such felon or felons was or were taken by the person or persons claiming the said reward; and in case any dispute shall happen to arise between the persons so apprehending any of the said thieves and robbers touching their right and title to the said reward, that then the said judge or justices, so respectively certifying as aforesaid, shall, in and by their said certificate, direct and appoint the said reward to be paid unto and amongst the parties claiming the same, in such share and proportions as to the said judge or justices shall seem just and reasonable: And if it shall happen any such sheriff or sheriffs shall die, or be removed before the expiration of one month after such conviction and demand made of the said reward, (not being paid as aforesaid,) that then the next succeeding sheriff or sheriffs of the said county shall pay the same within one month after demand and certificate brought as aforesaid: And if default of payment of the said sum or sums of money shall happen to be made by any sheriff or sheriffs, such sheriff or sheriffs so making default shall forfeit to the person or persons, to whom such money is due as aforesaid, double the sum or sums of money he ought to have paid, to be recovered by him or them, or his or their executors or administrators, in any of their Majesties' Courts of Record at *Westminster*, by action of debt, bill, plaint, or information, wherein but one imparlance, and no essoin, protection, or wager of law, shall be allowed, with treble costs of suit by him or them expended in the recovery of the same.

Extended to robberies in London, by 6 Geo. I. c. 25. sect. 8.

How to be recovered.

Executors, &c. of persons killed shall have the reward.

III. And be it further enacted, That in case any person or persons shall happen to be killed by any such robber or robbers, endeavouring to apprehend, or in making pursuit after him or them, that then the executors or administrators, or such person or persons to whom the right of adminis-

No. XVIII. 4 W. and M. c. 8.

tration of the personal estate of each person so killed shall belong, (upon certificate delivered under the hands and seals of the judge or justices of assize for the county where the fact was done, or the two next justices of the peace, of such person or persons being so killed, which certificate the said judge or justices, upon sufficient proof before them made, are immediately required to give without fee or reward,) shall receive the sum of forty pounds from the sheriff or sheriffs of the county where the said fact was done and committed, and upon failure of payment thereof by the said sheriff or sheriffs, double the said sum of forty pounds, to be recovered against him or them, with treble costs of suit, in manner and form as aforesaid.

Sheriffs shall be allowed it in their accounts.

IV. And it is hereby further enacted, That all sheriffs, their executors or administrators, upon producing such respective certificates, and the receipts for the money by them paid in pursuance of this Act, shall be allowed, and are hereby impowered to deduct, upon their accounting with their Majesties, their heirs and successors, all monies (other than the double sum and sums of money, and costs of suit) which they shall disburse as aforesaid, without any fee or reward whatsoever.

Sheriffs not having sufficient to be repaid by the treasury.

V. Provided always, That if, upon the account of any sheriff or sheriffs, there shall not be monies sufficient in the hands of such sheriff or sheriffs to reimburse him or them such monies paid by him or them by virtue of this Act, that then the sheriff or sheriffs, having so paid the said monies, shall have the same repaid by the lord treasurer, or commissioners of their Majesties' treasury for the time being, out of the revenue of the crown, upon certificate from the clerk of the pipe to that effect.

Highwayman's horse, &c. given to the apprehender.

VI. And it is hereby further enacted, That all and every person or persons who shall so take, apprehend, prosecute, or convict such robber or robbers as aforesaid, as a further reward, shall have and enjoy to his and their proper use and behoof, the horse, furniture, and arms, money, or other goods of the said robber or robbers that shall be taken with him or them; any their Majesties' right or title, bodies politick or corporate, or the right or title thereunto of the lord of any manor, liberty or franchise, or of him or them lending or letting the same to hire to any such robber or robbers, in any wise notwithstanding: Provided always, That this clause, or any thing therein contained, shall not be construed to extend to take away the right of any person or persons to such horses, furniture and arms, money or other goods, from whom the same were before feloniously taken.

Person concerned discovering two others pardoned.

VII. And be it further enacted, That if any person or persons being out of prison, shall, from and after the said five and twentieth day of *March*, commit any robbery, and afterwards discover two or more person or persons, who already hath, or hereafter shall commit any robbery, so as two or more of the person or persons discovered shall be convicted of such robbery, any such discoverer shall himself have, and is hereby intitled to, the gracious pardon of their Majesties, their heirs and successors, for all robberies which he or they shall have committed at any time or times before such discovery made; which pardon shall be likewise a good bar to any appeal brought for any such robbery.

[No. XIX.] 10 and 11 William III. c. 23.—An Act for the better apprehending, prosecuting and punishing of Felons that commit Burglary, House-breaking, or Robbery in Shops, Warehouses, Coach-houses or Stables, or that steal Horses.

No. XIX. 10 and 11 William III. c. 23.

'WHEREAS the crimes of burglary and breaking open of houses in a 'a felonious manner, and the crime of stealing goods privately out 'of shops and warehouses, commonly called *shoplifting*, and the stealing of 'horses, are of late years much increased, to the great detriment and un'speakable loss of many of your Majesty's good subjects, occasioned for 'want of due prosecution and punishment of offenders therein, and for 'want of encouragement to such as shall vigorously endeavour the appre-

No. XIX. 10 and 11 William III. c. 23.

'hending of such malefactors:' For preventing whereof be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all and every person and persons, that shall at any time and times, by night or in the day-time, from and after the twentieth day of *May*, which shall be in the year of our Lord one thousand six hundred ninety-nine, in (1) any shop, warehouse (2), coach-house or stable, privately (3) and feloniously steal any goods, wares or merchandizes (4), being of the value of five shillings or more (although (5) such shop, warehouse, coach-house or stable, be not actually broke open by such offender or offenders, and although the owners of such goods, or any other person or persons, be or be not in such shop, warehouse, coach-house or stable, to be put in fear) or shall assist, hire or command any person or persons to commit such offence, being thereof convicted or attainted by verdict or confession, or being indicted thereof shall stand mute, or will not directly answer to the indictment, or shall peremptorily challenge above the number of three and twenty persons returned to be of the jury, shall by virtue of this Act be absolutely debarred and excluded of and from the benefit of the clergy (6).

Persons stealing goods in any shop, &c. of 5s. value or more,

or assisting therein,

excluded from benefit of clergy.

(1) A person not actually in the shop, but only waiting at the corner of the street to receive the goods, is not within this statute; Wild's case, note to Drinkwater's case, Leach, Ca. 7; Godfrey's case, Leach, Ca. 141.

(2) This means only a warehouse where goods are exposed to sale, and not a warehouse by the waterside, for receiving goods intended to be shipped; Howard's case, Foster, 77; or the warehouse of a Blackwell-hall factor, where goods are received for sale on commission, but not exposed as in shops; R. v. Godfrey, Leach, Ca. 141.

(3) If the person be detected, or even if his conduct excite suspicion, while he continues in the shop, &c. it is thought sufficient to repel the charge of privately stealing.

(4) This extends only to goods of the trader exposed to sale in the shop or warehouse, or to things usually kept in coach-houses or stables; not to a shirt left in a mercer's shop to be sent to be washed; 8 Mod. 165; to a watch sent to a watch-maker's to be repaired, and being in the shew glass of the shop, not being there for sale; Stern's case, Leach, Ca. 162; or livery coat of a coachman hung up in the stable; Foster, 78; Stone's case, Leach, Ca. 147.

(5) By this expression it would seem to be taken for granted, that if there had been a breaking, the offence would have been capital; but the opposite construction is fully established; Jones's case, E. P. C. ch. 16. § 79.

(6) The several cases on this clause shew an uniform disposition, on the part of the judges, to give it the most confined construction which the language will by any possibility admit; and have ascribed to it, in judicial construction, a much more qualified object and intention than the preamble seems to warrant. The disposition of the executive power upon the subject is also manifested by the circumstance, that, during the whole of the present reign, not more than one instance is known of the sentence having been carried into execution. These circumstances certainly manifest a strong and united opinion of the general disproportion subsisting between the offence and the punishment to which it is subjected; and it is admitted, that the sentence ought only to be carried into execution under very special and extraordinary circumstances: although certainly it does not seem to be a high recommendation of a law, that it ought not to be commonly executed. The circumstances of aggravation which sometimes induce the infliction of capital punishment, in cases of larceny under the authority of particular statutes, are usually such as are perfectly collateral to the ground of aggravation immediately contemplated by the statutes themselves, and might be equally applicable in cases of other larceny, in respect of which the extraordinary precaution does not apply. With respect to the influence of terror and example in preventing the commission of offences, the mere existence of an enactment in the statute book, never carried into execution but under very extraordinary circumstances, is not likely to have much effect in preventing the commission of such crimes as are not distinguished from others not subject to the same consequence; as it is not the enactment of a law, but the probability of its execution which can be justly calculated upon, as having any impression on the conduct of those who may be tempted to commit the offence intended to be guarded against. Some attempts to repeal this and other statutable provisions for making larceny in particular cases a capital offence, have of late been the subject of considerable discussion. The principles of criminal law, as applicable to the particular subjects, have been expounded with the greatest ability; but the proposals have usually been resisted with success, as indicating a spirit of *innovation*, and a wish to deviate from the *wisdom of our ancestors*. The proposal for abolishing the particular enactment to which the present note immediately applies, has met with a more favourable reception than some others;

No. XIX.

10 and 11 William III. c. 23.

Prosecutor of felon to have a certificate.

In case of dispute, judge to appoint the certificate into shares.

'Altered by 6. Geo. I. c. 23. § 8.'

By 5 Annæ, c. 31. § 1. apprehenders of burglars and house-breakers have a farther reward of 40*l*.

Certificate may be once assigned. Assignee discharged from parish and ward offices. Certificate to be inrolled.

Proviso.

If persons be slain in pursuit of house-

II. And be it enacted by the authority aforesaid, That from and after the said twentieth day of *May* one thousand six hundred ninety-nine, all and every person and persons, who shall apprehend and take any person guilty of any of the felonies before mentioned, and prosecute him, her or them so apprehended and taken, until he, she or they be convicted of any the aforesaid felonies, such apprehenders and takers, for his, her or their reward upon every such conviction, without any fee or reward to be paid for the same, shall have forthwith after every such conviction a certificate, which shall be under the hand or hands of the judge, justice or justices before whom every such conviction shall be had, certifying such conviction, and also within what parish or place the felony was committed, whereof any such person or persons was or were convicted as aforesaid, and also that such felon or felons was or were discovered and taken, or discovered or taken, by the person or persons so discovering or apprehending any the said felon or felons; and in case any dispute shall happen to arise between any of the persons so discovering or apprehending any the said felon or felons so convict as aforesaid, touching their right or title to the said certificate, that then the said judge, justice or justices, or the major part of them, so respectively making such certificate as aforesaid, shall in and by his or their certificate, direct and appoint the said certificate into so many shares, to be divided amongst the persons therein concerned, as to the said judge, justice or justices, or the major part of them shall seem just and reasonable, which certificate shall and may be once assigned over and no more, and the original proprietor of such certificate, or the assignee of the same, whosoever of them shall have the interest therein by virtue thereof and of this present Act, shall and may be discharged of and from all and all manner of parish and ward offices, within the parish (1) or ward wherein such felony or felonies shall be committed, and such party or assignee is hereby declared to be discharged therefrom; which said certificate shall be inrolled by the clerk of the peace of the county in which the same shall be granted; for which inrollment the said clerk of the peace of the county or city, in which the same shall be granted, shall have for his fee the sum of one shilling, and no more.

III. Provided nevertheless, That if any person having such certificate, shall at any time make use of the said certificate to exempt him from any parish or ward office, such person so making use of the said certificate or any other person or persons claiming any interest therein, shall not assign over the said certificate to any person or persons whatsoever.

IV. And be it further enacted, That in case any person or persons shall happen to be slain by any such house-breakers, horse-stealers, or other felon aforesaid, by endeavouring to apprehend, or in making pursuit after

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for, after a successful opposition in one or two sessions in the House of Commons, the bill for the repeal has been, in subsequent sessions, allowed to pass that House without comment or observation, and been successfully resisted, with almost as little comment or observation, in the House of Lords. To those who think the credit of their forefathers interested in the preservation of this unexecuted law, it may be material to notice, that the severest punishment which, at the time of its enactment, could be inflicted on persons admitted to the benefit of clergy, was a burning in the hand and imprisonment for a year; and that transportation was first applied to cases of larceny by stat. 4 Geo. I. c. 11.

It would be foreign to the present purpose to enter into any discussion, whether the punishment of transportation ought to be continued, or relinquished agreeably to the recommendation of a report made by a committee of the House of Commons, a few days before the committing these observations to the press. It must be admitted, that between capital punishment, and the other punishments, less than transportation, which can be now inflicted in cases of felony, there ought to be intermediate degrees; and whether transportation is retained, or a greater extension of the penitentiary system is substituted, I do not think that the particular qualities of the offence at present under consideration are such, as to render it less probable that the law will have its proper force and efficacy in respect of them, than in respect of other cases which are admitted not to require so severe a remedy as the punishment of death.

(1) Where a parish is part of a manor, the certificate does not exempt from offices relating to the manor; Rex *v.* Darbyshire, 2 Bur. 1182; but where a parish consists of several townships, the exemption extends to the officers of the respective townships; Moseley *v.* Stonehouse, 7 East, 174.

No. XIX. 10 and 11 William III. c. 23.

him, her or them, or any of them, that then the executors or administrators of such person or persons so slain, to whom the right of administration of the personal estate of every person so slain shall belong, shall have the said certificate in manner as aforesaid, without fee or reward as aforesaid.

Housebreakers, &c. executors to have the certificate without fee.

V. And be it further enacted, That if any person or persons, from and after the said twentieth day of *May* in the said year of our Lord one thousand six hundred ninety and nine, shall commit any burglary, housebreaking, or felony in stealing of any horse or horses, or any money, wares or goods, from whom the benefit of the clergy is by this Act taken away, and being out of prison, shall discover two or more person or persons, who already hath, or hereafter shall commit any such burglary, horse-stealing or felony as aforesaid, and shall be convicted thereof, or cause to be discovered and apprehended two persons or more, who shall be convicted as aforesaid, every such discoverer shall have, and is hereby intituled to his Majesty's most gracious pardon for the burglaries, house-breakings, horse-stealings, or felonies as aforesaid, which he, she, or they shall have committed at any time or times before such discovery made; which pardon shall be likewise a good bar to any appeal brought or to be brought for any such burglary, house-breaking, horse-stealing or felony.

House-breakers, &c. discovering two or more felons, intitled to the king's pardon, to be a good bar to appeal.

VI. 'And forasmuch as many evil-disposed persons might be deterred from offending, should the punishment by law to be inflicted on such persons be made more visible;' Be it further enacted, That from and after the said twentieth day of *May* one thousand six hundred ninety-nine, all and every person and persons who shall be convicted of or for any theft or larceny, and shall have the benefit of the clergy allowed thereupon, or ought to be burnt in the hand for such offence, instead of being burnt in the hand, shall with the usual mark wherewith such offenders, according to the laws now in force, ought to be burnt in the hand, be burnt in the most visible part of the left cheek nearest the nose, which punishment shall be inflicted in open court, in the presence of the judge, who is hereby directed and required to see the same strictly and effectually executed; any former law or statute to the contrary thereof in any wise notwithstanding.

Persons convicted of theft or larceny, instead of burning in the hand, to be burnt in the left cheek in open court. 'Repealed by 5 Annæ, c. 6. § 1.'

VII. 'And whereas the great fees that are often demanded and received 'by clerks of assize, of persons that appear as witnesses against felons, tend 'very much to the discouraging their conviction, to the great damage of 'his Majesty's good subjects:' To remedy the same for the future be it enacted, That no clerk of assize, clerk of the peace, or other person whatsoever, shall demand, take or receive any fee or reward of any person whatsoever that shall be bound by any justice of the peace to appear to give evidence against any traitor or felon, for the discharge of any recognizance for such appearance, nor shall demand or receive more than two shillings for the drawing any bill of indictment against any such felon, upon the pain of forfeiting to the person aggrieved, for every such offence, the sum of five pounds, with full costs of suit.

Evidence to pay no fee, &c. Fee for bill of indictment.

VIII. 'And whereas it often happens that clerks of assize, clerks of the 'crown, clerks of the peace, clerks of the indictments, or other proper 'officers, their clerks or deputies, do draw bills defective;' Be it enacted, That if any clerk of assize, clerk of the crown, clerk of the peace, clerk of the indictments, or other proper officer, or their clerks or deputies, shall draw any bill defective, they shall draw new bills without demanding any fee or reward whatsoever, or forfeit the sum of five pounds, with full costs of suit, and that all the forfeitures aforesaid shall be recovered by him, her, or them that will sue for the same, by action of debt, bill, plaint or information, in any of his Majesty's Courts of Record, wherein no essoin, protection or wager of law shall be allowed.

Clerk of assize, &c. drawing defective bill, to draw a new one gratis. Penalty.

[No. XX.] 5 Anne, c. 6.—An Act for repealing a Clause in an Act, intituled, *An Act for the better apprehending, prosecuting, and punishing Felons that commit Burglaries,*

House-breaking, or Robberies in Shops, Warehouses, Coach-houses, or Stables, or that steal Horses.

No. XX. 5 Anne, c. 6. 10 & 11 W. 3. c. 23.

'WHEREAS by an Act made in the tenth year of the reign of his late Majesty King *William* the Third, intituled, *An Act for the better apprehending, prosecuting, and punishing Felons that commit Burglaries, House-breaking, or Robbery in Shops, Warehouses, Coach-houses, or Stables, or that steal Horses;* it is (amongst other things) enacted, That from and after the twentieth day of *May* one thousand six hundred ninety-nine, all and every person and persons, who should be convicted of or for any theft or larceny, and should have the benefit of the clergy allowed thereupon, or ought to be burnt in the hand for such offence, instead of being burnt in the hand, should be burnt in the most visible part of the left cheek nearest the nose: And whereas it hath been found by experience, that the said punishment hath not had its desired effect, by deterring such offenders from the further committing such crimes and offences, but on the contrary, such offenders being rendered thereby unfit to be intrusted in any service or employment to get their livelihood in any honest and lawful way, become the more desperate;' Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the fourteenth day of *February* which shall be in the year of our Lord one thousand seven hundred and six, so much of the said Act as inflicts or concerns the inflicting the said punishment of burning in the cheek, shall be and is hereby repealed.

Clause for burning offenders in the cheek repealed.

Offenders to be burnt in the hand as formerly:

II. And be it further enacted by the authority aforesaid, That in all cases where any person or persons shall, from and after the said fourteenth day of *February*, be convicted of any theft or larceny, and shall have the benefit of this Act allowed thereupon, or ought by the laws in force before the making the said Act, to be burned in the hand for such offence, shall be burnt in the hand, as formerly they should or ought to have been before the making of the said Act; and the judge or justices before whom such offender or offenders shall be tried and convicted, shall also, at his or their discretion, award and give judgment, That such offender and offenders shall be committed to some house of correction or public work-house within the county, city, town, or place where such conviction shall be, there to be, remain, and be kept, without bail or mainprize, for such time as such judge or justices shall then judge and award, not less than six months, and not exceeding two years, to be accounted from the time of such conviction, and an entry thereof shall be made of record pursuant to such judgment and award, and such offender and offenders, so judged and awarded to remain and be kept in such house of correction or public work-house, shall be there set at work, and kept at hard labour for and during such time as shall be so adjudged and recorded: and in case such person or persons shall refuse or neglect to work and labour as they ought to do, the master or keeper of such house of correction or public work-house respectively is hereby required to give such person such due correction as shall be fit and necessary in that behalf.

And committed to work-house, &c. for six months, &c.

Penalty on such as refuse to work.

If offenders escape and be retaken, to be committed to work-house for twelve months, &c.

III. And be it further enacted by the authority aforesaid, That in case any such offender or offenders shall, after such judgment given, escape out of prison, or out of such house of correction or public work-house, as he, she or they shall be committed unto as aforesaid, such person or persons, being afterwards retaken, shall be brought before some or one of her Majesty's judges, or before two or more justices of the peace (whereof one to be of the *Quorum*) of such county, city, town, or place where such offender or offenders shall be so retaken; which judge or justices are hereby required to commit such offender and offenders to some house of correction or public work-house, within such county, city, town, or place, where he, she, or they shall be so retaken, there to remain without bail or mainprize for any time not less than twelve months, and not exceeding four years, to be accounted from the time of such retaking, and there to be set at work and kept at hard labour, and receive such due correction, as

and kept at hard labour.

aforesaid; and in case any master or keeper of any house of correction, or public work-house, shall neglect to do his duty, as above directed, any judge or justice of assize, or gaol delivery, upon complaint, and due proof thereof upon the oath of one or more witnesses to him made, shall be and is hereby impowered to remove every such person from his said office.

No. XX. 5 Anne, c. 6.

IV. 'And forasmuch as when any person is convicted for any felony 'within the benefit of clergy, upon his prayer to have the benefit thereof 'allowed to him, it hath been used to administer a book to him to try 'whether he can read as a clerk, which by experience is found to be of no 'use;' Be it therefore enacted by the authority aforesaid, That from and after the said fourteenth day of *February*, if any person be convicted of any such felony, for which he ought to have had the benefit of his clergy if this Act had not been made, and shall pray to have the benefit of this Act, he shall not be required to read, but without any reading shall be allowed, taken, and reputed to be, and punished as, a clerk convict, which shall be as effectual to all intents and purposes, and be as advantageous to him, as if he had read as a clerk; any thing in this Act, or any other law or statute to the contrary notwithstanding.

Felons convict to have benefit of this Act, without being required to read, &c.

[No. XXI.] 5 Anne, c. 31.—An Act for the Encouraging the Discovery and Apprehending of Housebreakers.

No. XXI. 5 Anne, c. 31.

'WHEREAS the crime of burglary and breaking open houses in a felo- 'nious manner, are of late years become more frequent than formerly, 'to the great disquiet, terror, and impoverishing many of your Majesty's 'good subjects; which crimes might be, in great measure, prevented, if due 'encouragement be given to such as shall vigorously endeavour the disco- 'very and apprehending of such malefactors, and some severe punishment 'inflicted on such as shall receive or buy stolen goods, and harbour and 'protect the said offenders:' For remedy whereof, be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the tenth day of *May* one thousand seven hundred and seven, all and every person and persons who shall apprehend and take any person or persons guilty of burglary, or the felonious breaking and entering of any house in the day-time, and prosecute him, her, or them, so apprehended and taken, until he, she, or they be convicted of such burglary or felony, shall have and receive, over and above the rewards given by one Act of Parliament made at *Westminster*, in the tenth and eleventh years of the reign of his late Majesty King *William* of glorious memory, intituled, *An Act for the better Apprehending, Preventing, and Punishing of Felons that commit Burglary, Housebreaking, or Robbery in Shops, Warehouses, Coach-houses, or Stables, or that steal Horses*, the sum of forty pounds within one month after such conviction, to be paid by the sheriff or sheriffs of the county where such felony or burglary shall be made and done, without any fee for the same, to the person or persons so taking, apprehending, and prosecuting the said offenders, he and they rendering a certificate to the said sheriff or sheriffs, under the hand or hands of the judges or justices before whom such felon shall be convicted for such burglary or felony, certifying the conviction of such felon for the said offence or offences, and in what parish the same was committed, and also that such felon or felons was or were taken by the person or persons claiming the said reward; and in case any dispute shall happen to arise between the persons so apprehending any the said felons, touching their right and title to the said reward, that then the said judge or justices so respectively certifying as aforesaid, shall in and by their said certificate direct and appoint the said reward to be paid to and amongst the parties claiming the same, in such share and proportions as to the said judge or justices shall seem just and reasonable; and if it shall happen that any such sheriff or sheriffs shall die or be removed before the expiration of one month after such conviction and demand made of the said reward (not being paid as aforesaid) that then the next succeeding sheriff or she-

Apprehenders of burglars, &c. to have 40*l.* over and above the rewards by 10 & 11 W. III. c. 23.

payable by sheriff.

Justices in case of dispute to direct in their certificate how reward shall be paid.

No. XXI. 5 Anne, c. 31.

riffs shall pay the same within one month after demand, and certificate brought as aforesaid; and if default of payment of the said sum or sums of money shall happen to be made by any sheriff or sheriffs, such sheriff or sheriffs so making default shall forfeit to the person or persons to whom such money is due as aforesaid, double the sum or sums of money he or they ought to have paid, to be recovered by him or them, or his or their executors or administrators, in any of her Majesty's Courts of Record at *Westminster*, by action of debt, bill, plaint, or information, wherein but one imparlance, and no essoin, protection, or wager of law shall be allowed, with treble costs of suit, by him or them expended in the recovery of the same.

Watchman or other killed in pursuit of house-breaker, his executor, &c. entitled to the 40*l.*

II. And be it further enacted, That in case any watchman, or any other person or persons shall happen to be killed by any such burglar or house-breaker, endeavouring to apprehend, or in making pursuit after him or them, that then the executors or administrators, or such person or persons to whom the right of administration of the personal estate of such person so killed shall belong, upon certificate delivered under the hands and seals of the judge or justices of assize of the county where the fact was committed, or the two next justices of the peace, of such person or persons being so killed, which certificate the said judge or justices, upon sufficient proof before them made, are immediately required to give without fee or reward, shall receive the sum of forty pounds from the sheriff or sheriffs of the county where the said fact was done and committed; and upon failure of payment thereof by the said sheriff or sheriffs, double the sum of forty pounds to be recovered against them, with treble costs of suit, in manner and form as aforesaid.

By 3 Geo. I. c. 15. § 4. sheriffs may apply to the Treasury without charging this money in their account.

Sheriff to deduct monies so paid on their accounts,

III. And it is hereby further enacted, That all sheriffs, their executors, and administrators, upon producing such respective certificates, and the receipts for the money paid by them, in pursuance of this Act, shall be allowed, and are hereby impowered to deduct, upon their accounts, all monies, other than double the sum and sums of money, and treble costs of suit, which they shall disburse as aforesaid; and that if upon account of any sheriff or sheriffs, there shall not be money sufficient in the hands of such sheriff or sheriffs to reimburse him or them such monies paid by him or them by virtue of this Act, that then the sheriff or sheriffs having so paid the said monies, shall have the same repaid by the lord treasurer or commissioners of her Majesty's treasury for the time being, out of the revenue of the Crown, upon certificate from the clerk of the pipe to that effect.

and be repaid by lord treasurer.

Felon, &c. discovering two or more felons, shall on conviction be entitled to reward,

IV. And be it further enacted, That if any person or persons being out of prison, shall from and after the said tenth day of *May* commit any burglary or felony as aforesaid, and afterwards discover two or more persons who already have, or hereafter shall commit any such burglaries or felonies, so as two or more of the persons discovered shall be convicted of such burglary or felony, any such discoverer shall himself have the like reward and allowance of forty pounds hereby promised to be paid to the person or persons who shall apprehend and convict house-breakers, and all other advantages given to such taker and prosecutor, and shall also be himself entitled to the gracious pardon of her Majesty, her heirs and successors, for all burglaries, robberies, and felonies (except murder and treason) by him committed at any time or times before such discovery made, which pardon shall be likewise a good bar to any appeal brought for such burglary, robbery, or felony.

and be pardoned.

Buyers or receivers of stolen goods, made accessaries, &c.

V. 'And forasmuch as the said felons are much encouraged to commit 'such burglaries and felonies, because a great number of persons make it a 'trade to receive and buy of the said felons the goods so by them feloniously taken, and also do make it their business to harbour and conceal the 'said offenders after the said facts, knowing the said felonies and burglaries 'to have been by them committed:' Be it therefore enacted by the authority aforesaid, That if any person or persons shall receive or buy any goods or chattels that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, or shall receive, harbour, or conceal any burglars, felons, or thieves, knowing them to be so, shall be taken and received as accessary or accessaries to the said felony or felonies; and being

No. XXI. 5 Anne, c. 31.

of either of the said offences legally convicted, by the testimony of one or more credible witnesses, shall suffer and incur the pains of death as a felon convict(1).

If principal felon cannot be taken, accessary to be tried as for a misdemeanor.

VI. Provided always, That if any such principal felon cannot be taken, so as to be prosecuted and convicted for any such offence, yet nevertheless it shall and may be lawful to prosecute and punish every such person and persons buying or receiving any goods stolen, by any such principal felon, knowing the same to be stolen, as for a misdemeanour, to be punished by fine and imprisonment, or other such corporeal punishment as the Court shall think fit to inflict, although the principal felon be not before convict of the said felony, which shall exempt the offender from being punished as accessary, if such principal felon shall be afterwards taken and convicted.

Judges, &c. to settle the shares of persons to the certificate, &c.

VII. Provided always, and be it enacted by the authority aforesaid, That the judge or justices (before whom such felons and house-breakers shall be convicted, as aforesaid) shall determine and settle the right, rights, and shares of such respective persons, who by virtue of this Act shall be entitled to the certificate herein directed to be given, and shall also (being thereunto required) make out and deliver, or cause to be made out and delivered, the said certificate without fee or reward to such person or persons entitled thereunto, before the end of such assizes or sessions wherein such conviction, as aforesaid, shall be had.

[VIII. No sheriff of *London* or *Middlesex* to take of under sheriff any gratuity for place of under-sheriff.—Nor oblige him to be at any expence, &c.—Exception.]

(1) This and the following section will be included, with the other provisions respecting stolen goods, in the next Class.

[No. XXII.] 12 Anne, stat. 1. c. 7.—An Act for the more effectual preventing and punishing Robberies that shall be committed in Houses.

No. XXII. 12 Anne, st. 1. c. 7.

'FORASMUCH as divers wicked and ill-disposed servants, and other persons, are incouraged to commit robberies in houses, by the privilege, as the law now is, of demanding the benefit of their clergy;' Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all and every person or persons that shall, at any time, from and after the first day of *July* in the year one thousand seven hundred and thirteen, feloniously steal any money, goods or chattels, wares or merchandizes(2), of the value of forty shillings(3) or more, being in any dwelling-house(4) or out-house thereunto belonging, although such house or outhouse be not actually broken by such offender, and although the owner of such goods, or any other person or persons, be or be not in such house or out-house, or

Persons stealing to the value of 40*s.* being in a dwelling-house, though such house, &c. be not broken, &c. and being

(2) Bank notes and other written instruments, of which larceny may be committed under stat. 2 Geo. II. § 25, are deprived of clergy under this statute; Dean's case, E. P. C. ch. 16. § 83.

(3) Several larcenies cannot be added together to constitute this offence; and it must therefore appear by the evidence, that property to the value of 40*s.* was taken at one time; R. *v.* Petrie, Leach, ca. 145; 2 E. 740.

(4) The same circumstances are requisite to constitute a dwelling-house with reference to this Act, as are necessary in case of burglary. And a house in which neither the prosecutor nor any of his family lived or resided, although a person may have slept therein in order to take care of the furniture, is not within the Act. See the several cases of Lyons and Miller, Holland, Thompson, Harris and Davis. E. P. C. ch. 15. § 12. The Act is considered as being passed principally for the protection of the owner of the house, and is therefore held not to extend to a larceny committed by the owner or his wife. See the several cases of Mac Donnel and Gould, E. P. C. ch. 16. § 81. The Act also only extends to protect property usually kept or deposited in the house, as distinguished from property under the protection of the person; and not to cases of ring-dropping and other tricks amounting to larceny. See the cases of Campbell, Owen and Castledine, E. P. C. ch. 16. § 82.

No. XXII. 12 Anne, st. 1. c. 7.

shall assist or aid any person or persons to commit any such offence, being thereof convicted or attainted by verdict or confession, or being indicted thereof shall stand mute, or will not directly answer to the indictment, or shall peremptorily challenge above the number of twenty returned to be of the jury, shall, by virtue of this Act, be absolutely debarred of and from the benefit of clergy; any law or custom to the contrary notwithstanding.

thereof convicted, shall be debarred the benefit of clergy.

II. Provided always, That nothing in this Act shall extend to apprentices under the age of fifteen years, who shall rob their masters, as aforesaid.

III. 'And whereas there has been some doubt, whether the entring into 'the mansion-house of another, without breaking the same, with an intent 'to commit some felony, and breaking the said house in the night-time to 'get out, be burglary;' Be it declared and enacted by the authority aforesaid, That if any person shall enter into the mansion or dwelling-house of another, by day or by night, without breaking the same, with an intent to commit felony, or being in such house shall commit any felony, and shall in the night time break the said house to get out of the same, such person is and shall be adjudged and taken to be guilty of burglary, and shall be ousted of the benefit of his and her clergy, in the same manner as if such person had broke and entred the said house in the night-time, with an intent to commit felony there (1).

Entring into a house without breaking it, or being there committing felony, and breaking the house in the night to get out, shall be burglary.

(1) This was said to have been law before. But it had been doubted by Holt and Trevor C. J. in the case of Elizabeth Clarke, O. B. 1707, upon a special verdict found by the direction of the former; in consequence of which the Act was passed; E. P. C. ch. 15. § 6. and authorities there cited.

[No. XXIII.] 12 Anne, stat. 2. c. 18.—An Act for the Preserving all such Ships and Goods thereof, which shall happen to be forced on Shore, or stranded upon the Coasts of this Kingdom, or any other of her Majesty's Dominions.

[Inserted Part III. Cl. II. No. 8.]

[No. XXIV.] 4 George I. c. 11.—An Act for the further preventing Robbery, Burglary, and other Felonies, and for the more effectual Transportation of Felons, and unlawful Exporters of Wool; and for declaring the Law upon some Points relating to Pirates *.

* This Act will be inserted in the last Class of the present Part, with the other provisions respecting transportation. The clause against receiving stolen goods will form one of the numbers of Class VIII. infrà.

[No. XXV.] 6 George I. c. 23.—An Act for the further preventing Robbery, Burglary, and other Felonies, and for the more effectual Transportation of Felons †.

No. XXV. 6 Geo. I. c. 23.

VIII. 'AND whereas frequent robberies have been lately committed in 'the streets of *London* and *Westminster*, and other cities, towns 'and places, and doubts have arisen whether any reward could be allowed 'to persons concerned in the apprehending, prosecuting and convicting 'such offenders, which may prove a discouragement to persons who other-'wise may be willing to undertake the same:' Be it hereby enacted by the authority aforesaid, That the streets of *London* and *Westminster*, and other

† For the preceding sections of this Act, see the laws respecting transportation, in the last Class of the present Part. For section XI. respecting assaults with intent to spoil cloaths, see Class VI. suprà.

No. XXV. 6 Geo. I. c. 23.

cities, towns and places, shall be deemed and taken to be highways to all intents and purposes, within the intent and meaning of an Act made in the fourth and fifth years of the reign of their late Majesties King *William* and Queen *Mary*, intituled, *An Act for the encouraging the apprehending of highwaymen;* and all certificates to be hereafter signed upon convictions for robbery, shall be signed and paid without any deduction, fee or reward to be taken for the same, excepting any sum not exceeding five shillings for the writing and drawing thereof, and that as well where any offender or offenders plead guilty, as where they are convicted on evidence; and if any person or persons, under the pretence of signing or procuring to be signed any such certificate, or on account of payment of the money allowed therein, shall take any fee or reward for the same, other than as aforesaid, every such person or persons offending therein, shall forfeit and pay the sum of forty pounds, to be recovered by action of debt, bill, plaint, suit or information, in any of his Majesty's Courts of Record at *Westminster*, where no essoin, protection or wager of law shall be allowed, or any more than one imparlance; such forfeiture to be to the use of the person or persons entitled to the said certificate, on the account of which such fee or reward was taken as aforesaid.

The streets of London, Westminster, &c. shall be deemed highways within the 4 & 5 W. & M. c. 8. And all certificates upon conviction for robbery shall be paid without fee; except 5*s.* for writing, and persons taking more shall forfeit 50*l.*

IX. 'And whereas the practice of taking money to help persons to their 'stolen goods, and sharing it with the felons, is still continued, in defiance 'of the laws, and to the encouragement of felons:' Be it enacted by the authority aforesaid, That whoever shall discover, apprehend, and prosecute to conviction of felony without benefit of clergy, any person or persons, for the said offence of taking money or other reward, directly or indirectly, to help any person or persons to their stolen goods, (such offender not having apprehended the felon who stole the same, and brought him or her to trial for the same, and given evidence against him or her, as required by law,) shall be entitled to a reward of forty pounds for every such offender so convicted, as aforesaid, and shall have the like certificate, and like payments made without fee or reward, as any person or persons may be entitled unto for the apprehending, prosecuting, and convicting of highwaymen, by any law or laws for that purpose.

Prosecuting to conviction any person for taking a reward for helping to stolen goods, shall be entitled to 40*l.* 4 Geo. I. c. 11. sect. 4*.

X. And be it further declared by the authority aforesaid, That the reward of forty pounds for the apprehending and convicting any person or persons for burglary, shall be paid without any deduction as aforesaid, for every offender who shall be apprehended and convicted for the said crime (1).

The reward of 40*l.* to be paid without deduction.

[No. XXVI.] 2 George II. c. 25.—An Act for the more effectual preventing and further Punishment of Forgery, Perjury, and Subornation of Perjury; and to make it Felony to steal Bonds, Notes, or other Securities for Payment of Money.†

No. XXVI. 2 Geo. II. c. 25.

III. AND be it further enacted by the authority aforesaid, That if any person or persons, after the said twenty-ninth day of *June*, shall steal or take by robbery any exchequer orders or tallies, or other orders, entitling any other person or persons to any annuity or share in any parliamentary fund, or any Exchequer bills, Bank-notes (2), *South-Sea* bonds, *East-India* bonds, dividend warrants of the Bank, *South-Sea* Company, *East-India* Company, or any other company, society or corporation, bills of exchange (3), navy bills or debentures, goldsmiths' notes for payment of

To steal orders, tallies, &c. felony.

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* See the next Class.

(1) For further parts of this Act, see Vol. V. *etiam infrà*.

† Passed for five years.—Revived and made perpetual 9 Geo. II. c. 18. For Section I. respecting Forgery, and Section II. respecting Perjury, see those respective titles, post.

(2) Stealing one Bank-note, &c. is sufficient to constitute a felony within the Act; Hassel's case, Leach, 1 E. P. C. ch. 16. § 37. An indictment for stealing a *note, commonly called a Bank-note*, is not good; as it does not follow any of the descriptions of the statute; Craven's Case, E. P. C. ch. 16. § 37.

(3) An indictment for stealing a bill, indorsed with the names of A. B. and C. D.

No. XXVI. 2 Geo. II. c. 25.

money, or other bonds or warrants, bills or promissory notes (1) for the payment of any money (2), being the property of any other person or persons, or of any corporation, notwithstanding any of the said particulars are termed in law a *chose in action* (3), it shall be deemed and construed to be felony, of the same nature and in the same degree, and with or without the benefit of clergy (4), in the same manner as it would have been, if the offender had stolen or taken by robbery, any other goods of like value with the money due on such orders, tallies, bills, bonds, warrants, debentures or notes, or secured thereby, and remaining unsatisfied, and such offender shall suffer such punishment as he or she should or might have done, if he or she had stolen other goods of the like value with the monies due on such orders, tallies, bonds, bills, warrants, debentures or notes respectively (5), or secured thereby, and remaining unsatisfied; any law to the contrary thereof in any wise used notwithstanding (6).

[No. XXVII.] 4 George II. c. 32.—An Act for the more effectual punishing Stealers of Lead, or Iron Bars fixed to Houses, or any Fences belonging thereunto.

No. XXVII. 4 Geo. II. c. 32.

'WHEREAS the pernicious practice of stealing lead, iron bars, iron gates, iron palisadoes, and iron rails fixed to dwelling-houses, out-houses, coach-houses, stables, and other buildings, and fixed in gardens, orchards, court-yards, fences and outlets, belonging to dwelling-houses and other buildings, hath of late time been much used, to the great detriment of his Majesty's subjects; and it is necessary, for the more effectual preventing of such offences, to inflict a more exemplary punishment on such offenders, than by the laws of this realm can now be done:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June*, one thousand seven hundred and thirty-one, all and every person and persons, who shall steal, rip, cut

Stealers of lead, iron bars,

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held good, although the prisoner afterwards indorsed the name D. E. and there was no proof of his having it in the county in which he was indicted, without such last indorsement; R. *v.* Austin, E. P. C. ch. 16. § 37.

(1) *One promissory note for the payment of five pounds* is a sufficient description; Milner's Case, E. P. C. ch. 16. § 37. Vide Rex *v.* Box, 6 Taunt. 325.

(2) Where the prisoner by duress, and under a menace of death, compelled the prosecutor to sign a promissory note, previously written on a stamp brought by her to him for the purpose, it was ruled not to be a stealing within the Act; Phipoe's Case, Leach, ca. 283.

(3) It is incorrect to describe the subjects above enumerated, as *chattels;* but the word may be rejected as a surplusage; R. *v.* Sadi and Morris, E. P. C. ch. 16. § 37. In the same case, E. P. C. ch. 16. § 143, there was a difference of opinion amongst the judges, whether the receiving the articles mentioned in the statute was an offence within the Acts against receiving stolen *goods;* but the majority were of opinion that it was not. Sir E. H. East suggests a doubt, whether this opinion was not overruled by Dean's case, and other cases mentioned infrà, where stealing the property in question was held within the statutes taking away the benefit of clergy: but the cases clearly stand on very different grounds; the one relating to the description of the property, as satisfying the words of the statutes against receivers—the other upon the consequences attaching, under the immediate authority of the present Act, to the offences included therein. And the late Sir Alexander Thomson, in a case in which I was counsel, expressly decided that an indictment could not be maintained in such a case against a receiver.

(4) The stealing of these descriptions of property is ousted of clergy, under the Acts for stealing in dwelling-houses; or in other cases where particular larcenies are made capital by statute; Dean's Case, Leach, ca. 283. E. P. C. ch. 16. § 83; Milnes's Case, E. P. C. ch. 16. § 37.

(5) Ruled, that an indictment for stealing nine Bank-notes for the payment of divers sums of money, amounting in the whole to 9*l.* was sufficient; and that it was not necessary to aver that each of the notes was for the payment of 1*l.*; R. *v.* Johnson, Leach, 4th ed. ca. 306.

(6) This statute having expired and been re-enacted by 9 Geo. II. R. that an indictment concluding *contra formam statuti* is sufficient; Morgan's Case, E. P. C. ch. 16. § 37.

No. XXVII. 4 Geo. II. c. 32.

&c. fixed to houses, or any fences belonging thereto, shall be guilty of felony, and be transported for seven years.

or break, with intent to steal, any lead, iron (1) bar, iron gate, iron palisadoe, or iron rail whatsoever, being fixed to any dwelling-house, out-house, coach-house, stable or other building (2), used or occupied with such dwelling-house, or thereunto belonging, or to any other building whatsoever, or fixed in any garden, orchard, court-yard, fence or outlet (3), belonging to any dwelling-house or other building, shall be deemed and construed to be guilty of felony (4); and every such felon and felons shall be subject and liable to the like pains and penalties as in cases of felony; and the court, by and before whom such person or persons shall be tried, shall, and hereby have power and authority to transport such felons for the space of seven years, in like manner as other felons are directed to be transported by the laws and statutes of this realm; and all and every person and persons who shall be aiding, abetting, or assisting in stealing, or in such ripping, cutting or breaking any lead, iron bar, iron gate, iron palisadoe, or iron rail, fixed to any dwelling-house, out-house, coach-house, stable, or other building, or fixed in any garden, orchard, court-yard, fence or outlet, belonging to any dwelling-house or other building, or who shall buy or receive any such lead, iron bar, iron gate, iron palisadoe or iron rail, knowing the same to be stolen, shall be subject and liable to the same punishments as if he, she, or they had stolen the same; any law to the contrary in any wise notwithstanding.

[No. XXVIII.] 7 George II. c. 21.—An Act for the more effectual Punishment of Assaults with intent to commit Robbery.

No. XXVIII. 7 Geo. II. c. 21.

Persons convicted of assaulting others with offensive

'WHEREAS many of his Majesty's subjects have of late frequently been put in great fear and danger of their lives, by wicked and ill-disposed persons assaulting and attempting to rob them: And whereas the punishment of such offenders is not adequate to the heinousness of the crime, nor sufficient to deter wicked persons from such attempts:' To the end therefore, that all persons may be deterred from committing such offences, and for the greater punishment of such offenders, and for the more effectual preventing of the like mischiefs for the future: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons, from and after the first day of *May*, in the year of our Lord one thousand seven hundred and thirty-four, shall, with any offensive (5) weapon or instrument, unlawfully and malicious-

(1) A window casement, made of iron, lead, and glass, ruled not to be within the Act; R. v. Senior, Leach, ca. 227.

(2) Lead, &c. fixed to a church is within the Act. The article may be laid to be the property of the vicar, but not of the inhabitants or church-wardens; but the better way is to describe it only as affixed to the church; or, in case of lead, &c. fixed to a house, to charge it as fixed to a house belonging to A. B.; Hickman's Case, Leach, ca. 137. E. P. C. ch. 16. § 31.

(3) An iron rail to a tomb-stone, in the church-yard, not connected by any building with the church, ruled not to be within the Act; R. v. Davies, E. P. C. ch. 16. § 31.

(4) A defendant under this Act may be convicted, and have judgment for petty larceny; E. P. C. ch. 16. § 31. A person entering into a contract for the purpose of getting fraudulent possession of a house, and stripping it of the lead, &c. ruled to be within the Act; Munday's Case, ibid.

(5) In Ince's Case, O. P. February, 1785, founded on stat. 19 Geo. II. c. 34, for rescuing goods from officers of Excise, it was ruled that large sticks, about three feet long, with large knobs at the end with several prongs, the natural growth of the stick, were not offensive weapons within the Act: but in the case of Cosens, the very sessions following, it being objected that very large club sticks, such as people ride with to defend themselves, were not offensive weapons within the 19 Geo. II. the court said, that although it was difficult to say what should or should not be called an offensive weapon, it would be going a great deal too far to say, that nothing but guns, pistols, daggers, and instruments of war, should be so considered; but that bludgeons, (properly so called,) clubs, and any thing that is not in common use for any other purpose but a weapon, are clearly offensive weapons within the meaning of the legislature. In that case the point was left to the jury, and the prisoner was acquitted; Leach, ca.

No. XXVIII. 7 Geo. II. c 21.

weapons, and a design to rob, shall be transported for seven years.

ly (1) assault (2), or (3) shall by menaces, or in or by any forcible or violent manner, demand (4) any money, goods, or chattels, of or from any other person or persons, with a felonious intent to rob (5) or commit robbery upon such (6) person or persons, that then, and in every such case, all and every such person and persons so offending, being thereof lawfully convicted, shall be, and be adjudged guilty of felony, and every such offender and offenders shall be subject and liable to be transported, as in cases of felony; and the courts by and before whom he, she, or they shall be tried and convicted, shall have full power and authority of transporting such offenders for the space of seven years, upon the like terms and conditions, and by the same ways and means, and in like manner as other felons may or are to be transported to any of his Majesty's colonies or plantations in *America*, by force or virtue of any law for that purpose now in being.

Such convicts breaking gaol, or unlawfully returning from transportation, shall suffer death.

II. And be it further enacted by the authority aforesaid, That if any such offender or offenders aforesaid, who shall be ordered for transportation by or by virtue of this present Act, shall break gaol, or escape before such transportation, or shall return into any part of *Great Britain* or *Ireland* before the expiration of the said seven years, for which such offender or offenders shall be so ordered to be transported, as aforesaid, contrary to the intent and meaning hereof; all and every such person and persons so breaking gaol, escaping, or returning into any part of *Great Britain* or *Ireland*, within the time aforesaid, being thereof lawfully convicted, shall suffer death as felons, and have execution awarded against them as persons attainted of felony, without benefit of clergy.

[No. XXIX.] 14 George II. c. 6.—An Act to render the Laws more effectual for the preventing the stealing and destroying of Sheep and other cattle.

167, notes. In the case of Jackson and Randall, on the present statute, E. P. C. ch. 8. § 13, the assault was stated to be made with an offensive weapon, called a wooden staff, and appeared on the evidence to be made by throwing a stone; the case being reserved for the opinion of the judges, the variance was held not to be material, as the weapon laid, and that proved, would produce the same kind of mischief, viz. by blows and bruises; and the description would have been sufficient in an indictment for murder. This case (although the question turned on the mode of charging the offence in the indictment) necessarily proves a staff or a stone to be an offensive weapon within the Act.

(1) An indictment for an *assault* with intent, &c. must charge it to be unlawfully and maliciously, as well as feloniously: this is not necessary in an indictment for a *demand*, as the act is in the disjunctive; Pegge's Case, E. P. C. ch. 8. § 12.

(2) A commitment for an assault with intent, &c. not stating it to be made with a weapon, nor stating any demand by menaces, &c. held not to be within the Act, and the defendant bailed; R. *v.* Remnant, 5 T. R. 169.

(3) An indictment that the defendant did assault, and did menace to blow out the brains of the prosecutor, with intent, &c. is not sufficient. It must either state an assault with an offensive weapon, *or* that the defendant by menaces, or in a forcible or violent manner, did demand money, &c. R. *v.* Jackson and Randall, Leach, ca. 133; E. P. C. ch. 8. § 21.

(4) In Parfait's Case, Leach, ca. 8. it was ruled, that holding a pistol to a coachman, and saying "stop," was not within the Act; although it was admitted that the demand need not be with words. See observations on this case, E. P. C. ch. 8. § 11. where the decision is supposed to have turned upon the point mentioned n. (6) infrà.

(5) Presenting a pistol to a person and bidding him "stop," and on his calling out for assistance, threatening to blow his brains out if he called out any more, was held sufficient to support an indictment for an assault with intent to rob; R. *v.* Trusty, E. P. C. ch. 8. § 11. A charge for an assault with a weapon, with intent the monies of the said A. B. from his person and against his will to steal, held not sufficient to charge an intent to rob; the prisoner was afterwards convicted on another indictment, charging an intent *violently* to steal. It is not stated that any objection was made to the second indictment, for not using the word "*rob*," but it seems to be implied that that word was not necessary. It would, however, be preferable to follow the words of the Act, and expressly charge an intent to *rob*.

(6) An assault on a post-boy, with intent to rob the person in the chaise, there being no demand, is not a case within the Act; R. *v.* Thomas, Leach, ca. 140; E. P. C. ch. 8. § 11.

No. XXIX. 14 Geo. II. c. 6.

'WHEREAS divers evil-disposed persons have of late more generally and frequently than was ever known before, made it their practices 'secretly in the night-time to drive away and steal great numbers of sheep, 'and likewise secretly in the night-time to kill great numbers of sheep, and 'to strip off their skins, and then steal the carcases of the sheep so killed, 'leaving their skins behind to prevent discoveries; and also, in like man-'ner, to kill great numbers of sheep, and then cut open the sheep so killed, 'and take out and steal their inward fat, leaving their carcases behind, to 'prevent being discovered; by which wicked practices many of his Majes-'ty's good subjects have been very greatly injured in their properties, and 'put to very great charges in having their sheep and other cattle watched: 'And whereas the laws in being have not proved effectual to prevent the 'increase of the said wicked practices:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons shall at any time from and after the first day of *May*, in the year of our Lord one thousand seven hundred and forty-one, feloniously drive away, or in any other manner feloniously steal, one or more sheep or other cattle of any other person or persons whatsoever, or shall wilfully kill (1) one or more sheep or other cattle of any other person or persons whatsoever, with a felonious intent to steal the whole carcase or carcases, or any part or parts of the carcase or carcases of any one or more sheep or other cattle that shall be so killed, or shall assist or aid any person or persons to commit any such offence or offences; that then the person or persons guilty of any such offence, being thereof convicted in due form of law, shall be adjudged guilty of felony, and shall suffer death as in cases of felony, without benefit of clergy (2).

Sheep-stealing, or stealing any part of them, felony, without clergy.

II. And for the encouragement of such persons as shall vigorously endeavour to discover, apprehend and prosecute such offenders as aforesaid; Be it further enacted by the authority aforesaid, That from and after the first day of *May*, one thousand seven hundred and forty-one, all and every person and persons, who shall apprehend and prosecute to conviction, any offender or offenders guilty of any of the offences herein before-mentioned, shall have and receive, as a reward upon every such conviction, the sum of ten pounds, to be paid within one month after such respective conviction, by the sheriff or sheriffs of the county where such offence or offences shall be committed and done (without any deduction whatsoever), to the person or persons so apprehending and prosecuting such offender or offenders, he or they tendering a certificate to the sheriff or sheriffs signed by the judge or judges, before whom any such offender shall be convicted, certifying such conviction, and where the offence was committed, and that such offender or offenders was or were apprehended and prosecuted by the person or persons claiming the said reward; which certificate the said judge or judges are hereby authorized and required to sign accordingly, before the end of the same sessions or assizes, at which such respective conviction shall happen to be; and in such certificate shall direct and appoint (in case more than one person shall claim a right to the said reward) what share and proportion thereof shall be paid to each claimant; and if it shall happen that any such sheriff or sheriffs shall die or be removed before the expiration of one month after such conviction, and demand made of the said reward (the same not being paid as aforesaid), that then the next succeeding sheriff or sheriffs shall pay the same within one month after demand, and certificate brought, as aforesaid; and if default of payment of the said sum or sums of money shall happen to be made by any sheriff or sheriffs, such sheriff or sheriffs so making default, shall forfeit to

Reward for taking and convicting sheep-stealers.

Sheriffs on default of payment, to forfeit double the sum.

(1) An indictment for stealing lambs, supported by evidence that they were taken from the fold and killed, the skins taken, and the carcases left; and that no count for killing with intent to steal the carcase was necessary; Rawlin's Case, E. P. C. ch. 16. § 48.

(2) An indictment may be against A. for stealing a live sheep, and B. for receiving—lb. weight of mutton, part thereof, R. *v.* Cowell, E. P. C. ch. 16. § 48.

No. XXIX. 14 Geo. II. c. 6.

the person or person, to whom such money is due as aforesaid, double the sum or sums of money he or they ought to have paid, to be recovered by him or them, or his or their executors or administrators, in any of his Majesty's Courts of Record at *Westminster*, by action of debt, bill, plaint, or information, wherein but one imparlance, and no essoin, protection, or wager of law, shall be allowed, with treble costs of suit, by him or them expended in the recovery of the same.

Treble costs.

Sheriffs how to be repaid.

III. And be it further enacted by the authority aforesaid, That all sheriffs, their executors and administrators, upon producing such respective certificates, and the receipts for the monies paid by them in pursuance of this Act, shall be allowed, and are hereby impowered to deduct, upon their accounts, all monies, other than double the sum or sums of money, and treble costs of suit, which they shall disburse as aforesaid; and that if upon account of any sheriff or sheriffs there shall not be money sufficient in the hands of such sheriff or sheriffs, to reimburse him or them such monies paid by him or them by virtue of this Act, that then the sheriff or sheriffs, having so paid the said monies, shall have the same repaid by the lord treasurer or commissioners of his Majesty's treasury for the time being, out of the revenue of the Crown, upon certificate from the clerk of the pipe to that effect.

[No. XXX.] 15 George II. c. 13.—An Act for establishing an Agreement with the Governor and Company of the Bank of *England*, for advancing the sum of one million six hundred thousand Pounds, towards the Supply for the Service of the Year one thousand seven hundred and forty-two.

No. XXX. 15 Geo. II. c. 13.

XII. * AND be it further enacted by the authority aforesaid, That if any officer or servant of the said company being entrusted with any note, bill (1), dividend warrant, bond, deed, or any security, (2) money or other effects (3) belonging to the said company, or having any bill, dividend warrant, bond, deed, or any security or effects of any other person or persons lodged or deposited with the said company, or with him as an officer or servant of the said company, shall secrete, embezzle, or run away with any such note, bill, dividend warrant, bond, deed, security, money, or effects, or any part of them; every officer or servant so offending, and being thereof convicted in due form of law, shall be deemed guilty of felony, and shall suffer death as a felon without benefit of clergy (4).

Servants breaking their trust to the company, shall suffer death.

[No. XXXI.] 15 George II. c. 34.—An Act to explain an Act made in the fourteenth Year of the Reign of his present Majesty, intituled, *An Act to render the Laws more*

* Infrà s. 11.

(1) (2) (3) In Aslet's first case, Leach, (4th edit.) ca. 335. he was indicted for stealing exchequer bills; but it appearing that they were not signed by the auditor of the Exchequer, but by another person authorized by him, with the approbation of the lords of the treasury, but for which authority there was no provision in any subsisting Act of Parliament, it was ruled that the charge could not be sustained; but upon a second indictment for stealing *certain effects*, viz.—1st. A paper writing, purporting to be an exchequer bill—2d. Certain papers, upon the credit whereof the bank had advanced a large sum of money—3d. Certain papers, purporting to be bills, commonly called exchequer bills; and upon other counts, calling them securities instead of *effects*, the prisoner was convicted. See the opinion of the judges, as delivered by lord Alvanley, Leach, ca. 336.

(4) The same provisions are repeated *verbatim* in 35 Geo. III. c. 66. § 6; 37 Geo. III. c. 46. § 6. for making certain annuities created by the Parliament of Ireland transferrable; and the dividends payable at the Bank of England, with respect to effects deposited in pursuance of those Acts; and there is a similar provision in 24 Geo. II. c. 11. § 3. with respect to officers and servants of the S. S. Company.

effectual for preventing the stealing and destroying of Sheep and other Cattle.

No. XXXI. 15 Geo. II. c. 34. 14 Geo. 2. c. 6.

'WHEREAS by an Act made in the fourteenth year of the reign of his present Majesty, intituled, *An Act to render the Laws more effectual for preventing the stealing and destroying of Sheep and other Cattle*, it was enacted, That if any person or persons should at any time from and after the first day of *May* in the year of our Lord one thousand seven hundred and forty-one, feloniously drive away, or in any other manner feloniously steal, one or more sheep or other cattle of any other person or persons whatsoever, or should wilfully kill one or more sheep or other cattle of any other person or persons whatsoever, with a felonious intent to steal the whole carcase or carcases, or any part or parts of the carcase or carcases of any one or more sheep or other cattle that should be so killed, or should assist or aid any person or persons to commit any such offence or offences, that then the person or persons guilty of any such offence, being thereof convicted in due form of law, should be adjudged guilty of felony, and should suffer death as in cases of felony without benefit of clergy: And whereas it is doubtful to what sorts of cattle besides sheep the said Act was meant to extend;' Be it therefore enacted and declared by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said Act was meant and intended, and shall be construed, deemed, and taken to extend to any bull, cow (1), ox, steer, bullock, heifer (2), calf, and lamb, as well as sheep, and to no other cattle whatsoever.

To what sorts of cattle the Act shall extend.

[No. XXXII.] 18 George II. c. 27.—An Act for the more effectually preventing the stealing of Linen, Fustian, and Cotton Goods and Wares, in Buildings, Fields, Grounds, and other Places used for Printing, Whitening, Bleaching, or Drying the same *.

No. XXXII. 18 Geo. II. c. 27. 4 Geo. 2. c. 16.

'WHEREAS many doubts and difficulties have arisen upon the construction of an Act passed in the fourth year of the reign of his present Majesty, intituled, *An Act to prevent the stealing of Linen, Fustian and Cotton Goods or Wares, from Fields, Grounds and other Places used for whitening, bleaching or drying the same;* in regard the said act doth not express and mention, with sufficient certainty, the respective goods and wares, the stealing whereof from the respective places therein mentioned and described, is by the said Act intended to be prevented, whereby the good and wholesome ends proposed by the said Act have in a great measure been frustrated, and by means thereof, many of his Majesty's good subjects have been greatly injured in their properties, and put to very great expences and charges in watching the same, which hitherto hath nevertheless proved ineffectual:' For remedy whereof and for the more effectual preventing of thefts, frequently committed in buildings, fields, grounds and other places used for printing, whitening, bleaching or drying of linen, fustian and cotton goods or wares for the future; may it please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all and every person and persons, who at any time after the first day of *June* one thousand seven hundred and forty-five, shall by day or night feloniously steal any linen, fustian, callico, cotton cloth, or cloth worked, woven, or made of any cotton, or linen yarn mixed, or any thread, linen or cotton yarn, linen or cotton tape, incle, filleting, laces or any other linen, fustian or

Whoever shall steal linen, &c. laid to be printed, bleached, &c.

(1) (2) On an indictment for stealing a cow, proof of stealing a heifer is not sufficient; R. v. Cook, Leach, ca. 62. E. P. C. cl. 16. § 48.

* Repealed 51 Geo. III. c. 41.

No. XXXII. 18 Geo. II. c. 27.

cotton goods or wares whatsoever, laid, placed or exposed to be printed, whitened, bowked, bleached or dried in any whitening or bleaching croft, lands, fields or grounds, bowking-house, drying-house, printing-house, or other building, ground or place made use of by any callico printer, whitser, crofter, bowker or bleacher, for printing, whitening, bowking, bleaching or drying of the same, to the value of ten shillings, or who shall aid or assist, or shall wilfully or maliciously hire or procure any other person or persons to commit any such offence, or who shall buy or receive any such goods or wares so stolen, knowing the same to be stolen as aforesaid, being lawfully convicted thereof, shall be, and is and are hereby declared to be guilty of felony, and every such offender shall suffer death, as in cases of felony, without benefit of clergy; any law or usage to the contrary notwithstanding.

or shall aid or hire another to commit such offence, shall be guilty of felony, and suffer death.

[No. XXXIII.] 24 George II. c. 45.—An Act for the more effectual preventing of Robberies and Thefts upon any navigable Rivers, Ports of Entry or Discharge, Wharfs, and Keys adjacent.

No. XXXIII. 24 Geo. II. c. 45.

'WHEREAS divers wicked and ill-disposed persons are encouraged to commit robberies and thefts upon navigable rivers, ports of entry and discharge, wharfs and keys adjacent, by the privilege, as the law now is, of being admitted to the benefit of their clergy:' Therefore, for the more effectual preventing such felonies for the future, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all and every person or persons that shall at any time from and after the twenty-fourth day of *June*, one thousand seven hundred and fifty-one, feloniously steal any goods, wares or merchandize (1), of the value of forty shillings, in any ship, barge, lighter, boat, or other vessel, or craft, upon any navigable river (2), or in any port of entry or discharge, or in any creek belonging to any navigable river, port of entry or discharge, within the kingdom of *Great Britain;* or shall feloniously steal any goods, wares, or merchandize, of the value of forty shillings, upon any wharf or key adjacent to any navigable river, port of entry or discharge, or shall be present, aiding and assisting in the committing any of the offences aforesaid, being thereof convicted or attainted, or being indicted thereof shall of malice stand mute, or will not directly answer to the indictment; or shall peremptorily challenge above the number of twenty persons returned to be of the jury, shall be excluded from the benefit of clergy.

(1) Ruled only to relate to such goods and merchandize as are usually lodged in ships; not to Portugal money usually current, although not made current by proclamation; R. v. Grimes, E. P. C. ch. 16. § 85; Leigh's case, ibid. and Leach, ca. 28.

(2) Stealing from a vessel upon the banks of one of the creeks of the Thames, held not a stealing on the navigable river Thames. It should have been stated, a stealing in a creek belonging to the river; Pike's case, Leach, ca. 153; E. P. C. ch. 16. § 85.

[No. XXXIV.] 25 George II. c. 10.—An Act for the more effectual securing Mines of Black Lead from Theft and Robbery.

No. XXXIV. 25 Geo. II. c. 10.

'WHEREAS by experience it hath been found, that wad or black cawke, commonly called *black lead*, is and hath been necessary for divers useful purposes, and more particularly in the casting bomb shells, round shot, and cannon balls; and that such wad, black cawke, or *black lead*, hath hitherto been discovered in one mountain, or ridge of hills only in this realm; and that great waste and destruction therein, hath of late years been made by wicked and evil-disposed persons, who, by reason of the situation of the mine or mines, wad-hole or wad-holes of the said wad, black cawke or black lead, and of the great difficulty to secure and preserve the same from

'being unlawfully broke, or by force entered into; and also by reason of 'the small punishment by the laws now in being, annexed to offences of the 'like kind, have been encouraged unlawfully to enter, and by force to keep 'possession of the same, and from thence unlawfully to take and carry away 'great quantities of the said wad, black cawke or black lead; for the more 'effectual security of all and every mine or mines, wad-hole or wad-holes of 'wad or black cawke, commonly called *black lead*; and for preventing the 'unlawful breaking and entering into the same; or the unlawful taking and 'carrying away from such mine or mines, wad-hole or wad-holes, any wad, 'black cawke or black lead; and for punishing such offenders in a more 'exemplary manner, than by the laws in being can now be done;' May it therefore please your most excellent Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all and every person or persons that shall, from and after the twenty-fourth day of *June*, which shall be in the year of our Lord one thousand seven hundred and fifty-two, unlawfully break, or by force enter into any mine or mines, wad-hole or wad-holes of wad or black cawke, commonly called *black lead*, or into any pit, shaft, adit, or vein of wad, black cawke or black lead, with an intent to take and carry away from thence any wad, black cawke or black lead; or shall unlawfully from thence take and carry away any wad, black cawke or black lead, although such mine or mines, wad-hole or wad-holes, pit, shaft, adit, or vein, be not actually broke, or by force entered into by such offender or offenders; or shall aid, abet, assist, hire, or command any person or persons to commit such offence or offences as aforesaid; that then, and in every such case, all and every such person or persons shall be deemed and construed to be guilty of felony; and it shall and may be lawful for the Court, or judge, before whom any such person or persons so offending as aforesaid, shall be lawfully convicted, to order such offender or offenders to be committed to the prison or gaol of the said county, appointed for criminals, or to some house of correction within the same county, for a time not exceeding one year, there to be kept to hard labour during all the said time, and to be publickly whipt by the common hangman, or by the master of such house of correction, at such times and at such places, and in such manner, as such Court or judge shall think proper; or it shall and may be lawful to and for such Court or judge, or for any other subsequent Court held at the same place, with the like authority as the former, to order such offender or offenders to be transported to some of his Majesty's plantations beyond the seas, for a term not exceeding seven years, as such Court or judge shall think most proper; and thereupon judgment shall be given, that the person or persons so convicted shall be committed and whipt, or transported accordingly; and if transportation shall be directed, the same shall be executed in such manner, as is or shall be provided by law for the transportation of felons; and if any such person or persons so committed or transported shall voluntarily escape or break prison, or return from transportation before the expiration of the time for which he, she, or they shall be ordered to be transported as aforesaid, such person or persons being thereof lawfully convicted, shall suffer death as a felon, without benefit of clergy, and shall be tried for such felony in the county where he, she, or they so escaped, or where he, she, or they shall be apprehended.

The entering any mines of black lead, with intent to steal,

or the assisting or hiring persons to do so, felony;

Offenders to be committed for a year, and publickly whipt;

or to be transported for seven years;

and if they escape from prison, or return from transportation, to suffer death;

II. And be it further enacted by the authority aforesaid, That if any person shall be convicted or attainted of any of the offences aforesaid, and shall voluntarily escape, break prison, or return from transportation as aforesaid, and shall be apprehended in any other county or city different from that wherein the said offence was committed, the clerk of the assize, or clerk of the peace for the county or city where such conviction or attainder for the said offence or offences was had, shall, at the request of the prosecutor, or of any other on his Majesty's behalf, certify the same by a transcript in few words, containing the effect and tenor of such conviction or attainder, for which certificate two shillings and sixpence, and no more,

and a certificate of the former conviction deemed sufficient proof thereof.

No. XXXIV. 25 Geo. II. c. 10.

shall be paid; and such certificate being produced in Court shall be sufficient proof of such former conviction or attainder.

Receivers of lead, knowing such to be stolen, guilty of felony.

III. And be it further enacted by the authority aforesaid, That all and every person or persons who shall, from and after the said twenty-fourth day of *June* one thousand seven hundred and fifty-two, buy or receive any wad or black cawke, commonly called *black lead*, knowing the same to be so unlawfully taken and carried away as aforesaid, shall be deemed and construed to be guilty of felony, and being convicted thereof shall be subject and liable to all the pains and penalties, which any person or persons can or may by the laws and statutes of this realm be subject and liable to, for buying or receiving any goods or chattels that have been feloniously taken or stolen, knowing the same to have been stolen.

[No. XXXV.] 26 Geo. II. c. 19.—An Act for enforcing the Laws against Persons who shall steal or detain shipwrecked Goods; and for the Relief of Persons suffering Losses thereby.

[Inserted Pt. III. Class II. No. 15.]

[No. XXXVI.] 29 George II. c. 30.—An Act for more effectually discouraging and preventing the stealing, and the buying and receiving of stolen Lead, Iron, Copper, Brass, Bell-metal and Solder, and for more effectually bringing the Offenders to Justice.

[Inserted in the next Class. No. 7.]

[No. XXXVII.] 4 George III. c. 37.—An Act for the better establishing a Manufactory of Cambricks and Lawns, or Goods of the Kind usually known under those Denominations, now carrying on at *Winchelsea*, in the County of *Sussex*; and for improving, regulating and extending the Manufacture of Cambricks and Lawns, or Goods of the Kind usually known under those denominations, in that part of *Great Britain* called *England*.

No. XXXVII. 4 Geo. III. c. 37.

XVI. AND be it further enacted by the authority aforesaid, That if any person or persons shall by day or night break into any house, shop, cellar, vault or other place or building, or by force enter into any house, shop, cellar, vault, or other place or building, with intent to steal, cut or destroy any linen yarn, or any linen cloth, or any manufacture of linen yarn belonging to any manufactory, or the looms, tools or implements used therein; or shall wilfully or maliciously cut in pieces or destroy any such goods, either when exposed to bleach or dry; every such offender being thereof lawfully convicted, shall be judged guilty of felony, and shall suffer as in cases of felony, without benefit of clergy.

Breaking into a shop, &c. with intent to steal or destroy, &c. any materials or implements, declared to be felony.

[No. XXXVIII.] 6 George III. c. 48.—An Act for the better Preservation of Timber Trees, and of Woods and Underwoods; and for the further Preservation of Roots, Shrubs, and Plants.

[Inserted Pt. VI. Class XL. No. 11.]

[No. XXXIX.] 7 George III. c. 50.—An Act for amend-

ing certain Laws relating to the Revenue of the Post Office; and for granting Rates of Postage for the Conveyance of Letters and Packets between *Great Britain* and the *Isle of Man*, and within that Island.

No. XXXIX. 7 Geo. III. c. 50.

II. AND be it further enacted by the authority aforesaid, that from and after the said first day of *November*, one thousand seven hundred and sixty-seven, if any person or persons whatsoever shall rob any mail or mails, in which letters are sent or conveyed by the Post, of any letter or letters, packet or packets, bag or mail of letters; or shall steal or take from or out of any such mail or mails, or from or out of any bag or bags of letters, sent or conveyed by the Post, or from or out of any Post-office, or house or place for the receipt or delivery of letters or packets, sent or to be sent by the Post, any letter or letters, packet or packets; although such robbery, stealing, or taking, shall not appear, or be proved, to be a taking from the person, or upon the king's highway, or to be a robbery committed in any dwelling-house, or any coach-house, stable, barn, or any out-house belonging to a dwelling-house; and although it should not appear that any person or persons were put in fear by such robbery, stealing, or taking; yet such offender or offenders, being thereof convicted as aforesaid, shall nevertheless respectively be deemed guilty of felony, and shall suffer death as a felon, without benefit of clergy (1).

Persons who shall rob the mail of any letters, or shall steal letters from any mail or bag, or from any post-house or office, being convicted, shall suffer death, without benefit of clergy.

(1) For embezzlements by clerks, &c. in the Post-office, see stat. 52 G. III. c. 143. post, Class XIV.

[No. XL.] 13 George III. c. 31.—An Act for the more effectual Execution of the Criminal Laws in the two Parts of the United Kingdom *.

No. XL. 13 Geo. III. c. 31.

IV. 'AND whereas it frequently happens in both parts of the united kingdom, that persons having stolen or otherwise feloniously 'taken away money, cattle, goods, or other effects, carry the same into the 'other part of the united kingdom, and there have the said money, cattle, 'goods, or other effects, in their possession or custody; and doubts have 'been entertained, whether they could be indicted and tried in that part of 'the united kingdom, as the original offence was not there committed;' be it therefore enacted by the authority aforesaid, That, from and after the passing of this Act, if any person or persons having stolen, or otherwise feloniously taken money, cattle, goods, or other effects, in either part of the united kingdom, shall afterwards have the same money, cattle, goods, or other effects, or any part thereof, in his, her, or their possession or custody, in the other part of the united kingdom, it shall and may be lawful to indict, try, and punish such person or persons for theft or larceny in that part of the united kingdom where he, she, or they shall so have such money, cattle, goods, or other effects, in his, her or their possession or custody, as if the said money, cattle, goods, or other effects, had been stolen in that part of the united kingdom.

Persons who shall have stolen money, &c. in either part of the united kingdom, may be indicted for theft.

V. And be it further enacted by the authority aforesaid, That if any person or persons, in either part of the united kingdom, shall hereafter receive or have any money, cattle, goods, or other effects, stolen, or otherwise feloniously taken, in the other part of the united kingdom, knowing the same to be stolen, or otherwise feloniously taken, every such person or persons shall be liable to be indicted, tried, and punished for such offence in that part of the united kingdom where he she, or they shall so receive or have the said money, cattle, goods, or other effects, in the same manner, to all intents and purposes, as if the said money, cattle, goods, or other effects, had been originally stolen, or otherwise feloniously taken, in that part of the united kingdom (1).

Receivers of money, &c. in either part of the kingdom, knowing the same to be stolen, also liable to be punished.

* See this at length, infrà.

(1) The same provisions are made with respect to Great Britain and Ireland, by stat. 24 Geo. III. c. 92. § 5, 6. See the Act in the last Class, infrà.

No. XLI. 14 Geo. III. c. 46.

[No. XLI.] 14 George III. c. 46.—An Act to enable the Commissioners for executing the Office of Treasurer of his Majesty's Exchequer, or the Lord High Treasurer for the Time being, to pay, out of the Revenue of the Crown, certain Rewards for apprehending Highwaymen, and other offenders in the County Palatine of *Durham*.

[No. XLII.] 21 George III. c. 68.—An Act to explain and amend an Act, made in the fourth Year of the Reign of his late Majesty King *George* the Second, intituled, *An Act for the more effectual punishing Stealers of Lead or Iron Bars, fixed to Houses, or any Fences belonging thereunto.*

No. XLII. 21 Geo. III. c. 68.

Preamble recital of 4 Geo. 2. c. 32.

'WHEREAS by an Act, passed in the fourth year of the reign of his late Majesty King *George* the Second, intituled, *An Act for the more effectual punishing Stealers of Lead or Iron Bars, fixed to Houses, or any Fences belonging thereunto;* it is enacted, That all and every person and persons, who shall steal, rip, cut or break, with intent to steal, any lead, iron bar, iron gate, palisadoe, or iron rail whatsoever, being fixed to any dwelling-house, out-house, coach-house, stable, or other building, used or occupied with such dwelling-house, or thereunto belonging, or to any other building whatsoever, or fixed in any garden, orchard, court-yard, fence, or outlet belonging to any dwelling-house, or other building, shall be deemed and construed to be guilty of felony, and shall suffer the pains and penalties therein mentioned; and all and every person and persons who shall be aiding, abetting, or assisting, in stealing, or in such ripping, cutting, or breaking, any lead, iron bar, iron gate, iron palisadoe, or iron rail, fixed to any dwelling-house, out-house, coach-house, stable, or other building, or fixed in any garden, orchard, court-yard, fence, or outlet, belonging to any dwelling-house or other building; or who shall buy or receive any such lead, iron bar, iron gate, iron palisadoe, or iron rail, knowing the same to be stolen, shall be subject and liable to the same punishments as if he, she, or they, had stolen the same: And whereas the stealing of copper, brass, and bell-metal affixed to dwelling-houses and the appurtenances thereto, is not expressly prohibited and made punishable by the said recited Act of Parliament, whereby wicked and evil-disposed persons have been encouraged to steal the same, and others to buy and receive the same knowing the same to be stolen:' For preventing of which, be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of *August* one thousand seven hundred and eighty-one, all and every person and persons who shall steal, rip, cut, break, or remove with intent to steal, any copper, brass, bell-metal, utensil, or fixture, being fixed to any dwelling-house, out-house, coach-house, stable, or other building, used or occupied with such dwelling-house, or thereunto belonging, or to any other building whatsoever, or fixed in any garden, orchard, court-yard, fence, or outlet, belonging to any dwelling-house, or other building, or any iron rails or fencing set up or fixed up in any square, court, or other place (such person having no title, or claim of title thereto), shall be deemed and construed to be guilty of felony; and the Court by and before whom such person or persons shall be tried and convicted, shall, and hereby have power and authority to transport such felons for the term of seven years, in like manner as other felons are directed to be transported by the laws and statutes of this realm; or to order and direct that such offender be kept and detained in prison, and therein kept to hard labour for any time not exceeding three years, nor less than one year; and within that time, if such Court shall think fit, such offender shall be once, or oftener, but not more than three times, publicly whipped; And all and every person and persons who shall be aiding, abetting, or assisting, in steal-

From Aug. 1. 1781, all persons who shall steal, or remove with intent to steal, any copper, brass, &c. fixed to any dwelling-house, &c. shall be deemed guilty of felony, and may be transported for seven years, &c.

And all per-

No. XLII. 21 Geo. III. c. 68.

ing, or in such ripping, cutting, breaking, or removing, any copper, brass, bell-metal, utensil, or fixture, fixed to any dwelling-house, out-house, coach-house, stable, or other building, or fixed in any garden, orchard, court-yard, fence, or outlet, belonging to any dwelling-house, or other building, or any iron rails, or fencing, set up or fixed in any square, court, or other place; or who shall buy or receive any such copper, brass, bell-metal, utensil, or fixture, iron rails, or fencing, knowing the same to be stolen, shall be subject and liable to all and every the same punishments, pains, and penalties, as if he, she, or they, had stolen the same, although the principal felon or felons has not or have not been convicted of stealing the same; any law to the contrary in any wise notwithstanding.

sons assisting in such stealing, &c. or who shall buy such goods knowing them to be stolen, shall be liable to the same punishments.

[No. XLIII.] 21 George III. c. 69.—An Act to explain and amend an Act made in the twenty-ninth Year of the Reign of his late Majesty King *George* the Second, intituled, *An Act for more effectually discouraging and preventing the stealing, and the buying and receiving of stolen Lead, Iron, Copper, Brass, Bell-metal, and Solder; and for more effectually bringing the Offenders to Justice.*

[Inserted in the next Class.]

[No. XLIV.] 39 George III. c. 85.—An Act to protect Masters against Embezzlements by their Clerks or Servants.—[12th *July* 1799.]

No. XLIV. 39 Geo. III. c. 85.

'WHEREAS bankers, merchants, and others, are, in the course of their dealings and transactions, frequently obliged to entrust their servants, clerks, and persons employed by them in the like capacity, with receiving, paying, negociating, exchanging, or transferring, money, goods, bonds, bills, notes, bankers' drafts, and other valuable effects and securities: And whereas doubts have been entertained whether the embezzling of the same by such servants, clerks, and others, so employed by their masters, amounts to felony by the law of *England*, and it is expedient that such offences should be punished in the same manner in both parts of the United Kingdom;' be it enacted and declared by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any servant or clerk, or any person employed for the purpose in the capacity of a servant or clerk, to any person or persons whomsoever, or to any body corporate or politick, shall, by virtue of such employment, receive or take into his possession any money, goods, bond, bill, note, bankers' draft, or other valuable security, or effects, for or in the name or on the account of his master or masters, or employer or employers, and shall fraudulently embezzle, secrete, or make away with the same, or any part thereof, every such offender shall be deemed to have feloniously stolen the same from his master or masters, employer or employers, for whose use, or in whose name or names, or on whose account the same was or were delivered to, or taken into the possession (1) of such servant, clerk, or other person so employed, although such money, goods, bond, bill, note, banker's draft, or other valuable security, was or were no otherwise received into the possession of his or their servant, clerk, or other person so employed; and every such offender, his adviser, procurer, aider or abettor, being thereof lawfully convicted or attainted, shall be liable to be transported to such parts beyond the seas as his Majesty, by

Servants or clerks receiving any money or other effects on their master's account, and fraudulently embezzling or secreting any part thereof, shall be deemed to have feloniously stolen the same; and such offenders and their abettors shall, on con-

(1) It appears by note E. P. C. ch. 16. § 18. that in the fair copy of this bill, the following words in the draft, which was drawn by the learned writer himself, have been accidentally omitted at this place, viz.:—"*of such Master or Masters, Employer or Employers, then by the actual Possession.*"

viction, be liable to be transported for 14 years.

and with the advice of his Privy Council, shall appoint, for any term not exceeding fourteen years, in the discretion of the Court before whom such offender shall be convicted or adjudged (1).

(1) An indictment, to warrant a judgment upon this statute, must be specially drawn following the words of the Act; Jones's case, E. P. C. c. 18. It must have the requisites of an indictment for larceny at common law, and state the articles taken to be the property of some person; Mc. Gregor's case, East, ibid.; 3 B. and P. 106. Where the prisoner received money in the county of Salop, and denied such receipt in the county of Stafford, it was held by the judges to evidence, that the original taking was with intent to embezzle, and that he was properly tried at Salop; Hobson's case, 1 E. P. C. Add. xxiv. Most of the judges were of opinion, that he might be tried in either county. Where the prisoner received the money in Surrey, and the same day denied the receipt in Middlesex, there being no proof that he had paid or spent it in Surrey, it was ruled good evidence of an embezzlement in Middlesex; Palmer's case, Leach, (4th. Ed.) 338. A count on this Act may be joined with a count for larceny at common law; Johnson's case, Leach, Ca. 356.

[No. XLV.] 39 and 40 George III. c. 77.—An Act for the Security of Collieries and Mines, and for the better Regulation of Colliers and Miners.*—[9th *July* 1800.]†

* See this at length, Part V. Class VI. No. 59.

† The Act contains a summary provision with respect to stealing coals, tools, &c. See § 5.

[No. XLVI.] 42 George III. c. 81.—An Act for amending so much of an Act passed in the seventh Year of the Reign of his present Majesty, as relates to the secreting, embezzling, or destroying any Letter or Packet sent by the Post; and for the better Protection of such Letters and Packets; and for more effectually preventing Letters and Packets being sent otherwise than by the Post.—[22d *June* 1802.]

No. XLVI. 42 Geo. III. c. 81.

Penalty of felony without clergy on persons procuring, &c. officers of the post-office to secrete letters, &c. containing any parts of any security or instrument mentioned in recited Act; or fraudulently receiving such securities or instruments, or any parts of them.

II. AND be it further enacted, That, from and after the passing of this Act, if any person whatsoever, whether employed in any business relating to the post-office or not, shall counsel, command, hire, persuade, procure, aid, or abet, any such deputy, clerk, agent, letter carrier, post-boy or rider, or any other officer or person whatsoever, employed, or to be hereafter employed, in receiving, stamping, sorting, charging, carrying, conveying, or delivering letters or packets, or in any other business relating to the post-office, to commit any felony or offence in the said in part recited Act, or in this Act before mentioned, or shall with a fraudulent intention buy or receive the whole or any part or parts of any such security or instrument as aforesaid, which at the time of buying or receiving thereof he shall know to have been contained in any such letter or letters, packet or packets, so by any deputy, clerk, agent, letter carrier, post-boy or rider, or any other officer or person whatsoever, employed, or to be hereafter employed in receiving, stamping, sorting, charging, carrying, conveying, or delivering letters or packets, or in any other business relating to the post-office, secreted or embezzled, or stolen or taken out of any letter or letters, packet or packets, that shall come to his, her, or their hands or possession, or which he, she, or they, at the time of buying or receiving thereof, shall know to have been contained in, and stolen or unlawfully taken out of any letter or letters, packet or packets, stolen and taken by any person or persons whatsoever from or out of any mail or mails, bag or bags of letters, sent and conveyed by the post, or from or out of any post-office, or house or place for the receipt or delivery of letters or packets sent or to be sent by the post, each and every person so offending in any of the ways last before mentioned, being thereof convicted, shall be deemed guilty of felony, and shall suffer death as a felon without benefit of clergy, and shall and

Offenders may be tried before or after principal felon.

may be tried, convicted, and attainted of such felony, as well before as after the trial or conviction of the principal felon, and whether the said principal felon shall have been apprehended, or shall be amenable to justice or not. No. XLVI. 42 Geo. III. c. 81.

III. 'And whereas by the said in part recited Act, made in the seventh 'year of the reign of his present Majesty, it was, among other things, en- 'acted, that, from and after the said first day of *November* one thousand 'seven hundred and sixty-seven, if any person or persons whatsoever should 'rob any mail or mails in which letters are sent or conveyed by the post, 'of any letter or letters, packet or packets, bag or mail of letters, or 'should steal and take from out of any such mail or mails, or from or out of 'any bag or bags of letters sent or conveyed by the post, any letter or let- 'ters, packet or packets, although such robbery, stealing, or taking should 'not appear or be proved to be a taking from the person, or upon the 'King's highway, or to be a robbery committed in any dwelling-house, or 'any coach-house, stable, barn, or any out-house belonging to a dwelling- 'house, and although it should not appear that any person or persons were 'put in fear by such robbery, stealing, or taking, yet such offender or 'offenders, being thereof convicted as aforesaid, should nevertheless re- 'spectively be deemed guilty of felony, and should suffer death as a felon 'without benefit of clergy: And whereas, by reason of the difficulty and 'frequent impossibility of discovering and proving the particular county, 'stewartry or place within which the said last-mentioned offences have been 'committed, divers persons have escaped the pains and punishments by the 'said in part recited Act intended to be inflicted on such offenders, and it 'is reasonable to make further provisions for the trial and due punishment 'of such offenders:' Be it therefore further enacted, That all and every the said last-mentioned felonies and offences, which shall be committed from and after the passing of this Act, shall and may be alledged and laid, prosecuted, inquired of, tried, and determined, if committed in that part of *Great Britain* called *England*, either in the county wherein such felony or offence shall be committed, or wherein such offender or offenders shall be apprehended; and if committed in that part of *Great Britain* called *Scotland*, either in the Justiciary Court of *Edinburgh*, or in the Court of the Circuit of that part of the United Kingdom within which circuit such felony or offence shall be committed, or such offender or offenders shall be apprehended.

The offence of robbing the mail may be laid and prosecuted, if committed in England either in the county where committed, or where the offender is apprehended, and if committed in Scotland, either in the Justiciary Court of Edinburgh, or in the Circuit Court, &c.

[No. XLVII.] 48 George III. c. 129.—An Act to repeal so much of an Act passed in the eighth Year of the Reign of Queen *Elizabeth*, intituled, *An Act to take away the Benefit of Clergy from certain Offenders for Felony*, as takes away the Benefit of Clergy from Persons stealing privily from the Person of another; and for more effectually preventing the Crime of Larceny from the Person.—[30th *June* 1808.]

'WHEREAS by an Act passed in the eighth year of the reign of Queen 'Elizabeth, intituled, *An Act to take away the Benefit of Clergy from* 'certain Offenders for Felony, it is amongst other things enacted, That no 'person or persons who should after the passing of that Act happen to be 'indicted or appealed for felonious taking of any money, goods, or chattels 'from the person of any other, privily without his knowledge in any place 'whatsoever, and thereupon found guilty by verdict of twelve men, or shall 'confess the same upon his or their arraignment, or will not answer directly 'to the same according to the laws of this realm, or shall stand wilfully or 'of malice or obstinately mute, or challenge peremptorily above the num- 'ber of twenty, or shall be upon such indictment or appeal outlawed, shall 'from henceforth be admitted to have the benefit of his or their clergy, but 'utterly be excluded thereof, and shall suffer death in such manner and form as they should if they were no clerks: And whereas the said Act has

No. XLVII. 48 Geo. III. c. 129.

8 Eliz. c. 4. § 1, 2, taking away benefit of clergy in cases of theft privily from the person, repealed.

No. XLVII. 48 Geo. III. c. 129.

'not been found effectual for the prevention of the crimes therein mentioned, and it is therefore expedient that so much of the said Act as is hereinbefore recited should be repealed: And whereas it might tend more effectually to prevent the crime of larceny from the person, if every such offence, not being robbery, was rendered punishable more severely than simple larceny;' be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said Act as is hereinbefore recited shall, from and after the passing of this Act, be, and the same is hereby repealed.

Penalty on felonious theft from the person, not being robbery, transportation, &c.

II. And be it further enacted, That from and after the passing of this Act, every person who shall at any time or in any place whatever, feloniously steal, take, and carry away any money, goods or chattels from the person of any other, whether privily without his knowledge or not, but without such force or putting in fear as is sufficient to constitute the crime of robbery, or who shall be present, aiding and abetting therein, shall be liable to be transported beyond the seas for life, or for such term not less than seven years as the judge or court before whom any such person shall be convicted, shall adjudge, or shall be liable in case the said judge or court shall think fit to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol, house of correction, or penitentiary house, for any term not exceeding three years.

[No. XLVIII.] 51 George III. c. 41.—An Act to repeal so much of an Act passed in the Eighteenth Year of the Reign of King *George* the Second, intituled, *An Act for the more effectually preventing the Stealing of Linen, Fustian and Cotton Goods and Wares, in Buildings, Fields, Grounds, and other Places used for Printing, Whitening, Bleaching, or Drying the same*, as takes away the Benefit of Clergy from Persons Stealing Cloth in Places therein mentioned; and for more effectually preventing such Felonies.—[31st *May* 1811.]

No. XLVIII. 51 Geo. III. c. 41. 18 G. 2. c. 27.

'WHEREAS by an Act passed in the eighteenth year of the reign of his Majesty King *George* the Second, intituled, *An Act for the more effectually preventing the stealing of Linen, Fustian and Cotton Goods and Wares, in Buildings, Fields, Grounds and other Places used for printing, whitening, bleaching or drying the same*, it is, amongst other things, enacted, That every person who at any time after the first day of *June* one thousand seven hundred and forty-five, shall, by day or night, feloniously steal any linen, fustian, calico, cotton cloth; or cloth worked, woven, or made of any cotton or linen yarn mixed, or any thread, linen or cotton yarn, linen or cotton tape, incle, filletting, laces, or any other linen, fustian or cotton goods or wares whatsoever, laid, placed, or exposed to be printed, whitened, bowked, bleached, or dried, in any whitening or bleaching croft, lands, fields or grounds, bowking house, drying house, printing house, or other building, ground or place made use of by any calico printer, whitster, crofter, bowker or bleacher, for printing, whitening, bowking, bleaching or drying of the same, to the value of ten shillings, or who shall aid or assist, or shall wilfully or maliciously hire or procure any person or persons to commit any such offence, or who shall buy or receive any such goods or wares so stolen, knowing the same to be stolen as aforesaid, being lawfully convicted thereof, shall be guilty of felony; and that every such offender shall suffer death as in cases of felony, without benefit of clergy: And whereas the said Act has not been found effectual for the prevention of the crimes therein mentioned, and it is therefore expedient that so much of the said Act as is herein-before recited should be repealed: And whereas it might tend more effectually to prevent the aforesaid crimes if the same were punishable more severely

'than simple larceny:' Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said Act as is hereinbefore recited shall, from and after the passing of this Act, be and the same is hereby repealed. No. XLVIII. 51 Geo. III. c. 41. Repealed.

II. And be it further enacted, That, from and after the passing of this Act, every person who shall feloniously steal any linen, fustian, calico, cotton cloth, or cloth worked, woven or made of any cotton or linen yarn mixed, or any thread, linen or cotton yarn, linen or cotton tape, incle, filletting, laces or any other linen, fustian, or cotton goods or wares whatsoever, laid, placed or exposed to be printed, whitened, bowked, bleached or dried in any whitening or bleaching croft, lands, fields or grounds, bowking house, drying house, printing house, or other building, ground or place made use of by any calico printer, whitster, crofter, bowker or bleacher, for printing, whitening, bowking, bleaching or drying of the same, to the value of ten shillings, or who shall aid or assist, or wilfully or maliciously hire or procure any other person or persons to commit any such offence, or who shall buy or receive any such goods or wares so stolen, knowing the same to be stolen as aforesaid, being lawfully convicted thereof, shall be liable to be transported beyond the seas for life, or for such term not less than seven years, as the judge before whom any such person shall be convicted shall adjudge; or shall be liable, in case the said judge shall think fit, to be imprisoned and kept to hard labour in the common gaol, house of correction, or penitentiary house, for any term not exceeding seven years. Stealing linen, &c. from bleaching places, &c. Punishment.

[No. XLIX.] 52 George III. c. 143.—An Act for amending and reducing into one Act, the Provisions contained in any Laws now in force imposing the Penalty of Death for any Act done in Breach of or in Resistance to any Part of the Laws for collecting his Majesty's Revenue in *Great Britain*.—[23d *July* 1812.]

[See post, Cl. XIV.]

[No. L.] 54 George III. c. 101.—An Act for the more effectual Prevention of Child Stealing.—[18th *July* 1814.]

'WHEREAS the practice of carrying away young children, by forcible or fraudulent means, from their parents, or other persons having the care and charge or custody of them, commonly called child stealing, has of late much prevailed and increased: And whereas no adequate punishment is as yet provided by law in *England* or *Ireland* for so heinous an offence;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons, from and after the passing of this Act, shall maliciously, either by force or fraud, lead, take, or carry away, or decoy, or entice away any child, under the age of ten years, with intent to deprive its parent or parents, or any other person having the lawful care or charge of such child of the possession of such child, by concealing and detaining such child from such parent or parents, or other person or persons having the lawful care or charge of it; or with intent to steal any article of apparel or ornament, or other thing of value or use, upon or about the person of such child, to whomsoever such article may belong; or shall receive and harbour with any such intent as aforesaid, any such child, knowing the same to have been so by force or fraud led, taken, or carried, or decoyed, or enticed away as aforesaid; every such person or persons, and his, her, and their counsellors, procurers, aiders, and abettors, shall be deemed guilty of felony, and shall be subject and liable to all such pains, penalties, punishments and forfeitures, as by the laws now in force No. L. 54 Geo. III. c. 101. Persons offending against Act, subject to penalties usually inflicted on persons guilty of grand larceny.

No L. 54 Geo. III. c. 101.

may be inflicted upon, or are incurred by persons convicted of grand larceny.

Not to affect fathers of illegitimate children.

II. Provided always, and be it further enacted, That nothing in this Act shall extend, or be construed to extend, to any person who shall have claimed to be the father of an illegitimate child, or to have any right or title in law to the possession of such child, on account of his getting possession of such child, or taking such child out of the possession of the mother thereof, or other person or persons having the lawful charge thereof.

Not to extend to Scotland.

III. Provided also, and be it further enacted, That this Act shall not extend, or be construed to extend, to that part of *Great Britain* called *Scotland*.

[No. LI.] 56 George III. c. 73.—An Act for removing Difficulties in the Conviction of Offenders stealing Property from Mines.—[22d *June* 1816.]

No. LI. 56 Geo. III. c. 73.

'WHEREAS the minerals, and the timber, iron, and other materials, used in or for the working of mines are much exposed to depredation: And whereas great difficulties have been experienced in prosecuting to conviction and bringing to justice persons who have stolen such property, by reason of the rule of law which at present prevails throughout that part of *Great Britain* called *England*, for setting forth in indictments for larceny the names of all the persons who may be the owners of or are interested in the property stolen: And whereas the identity of such property may be ascertained and described as effectually by averring the same in such indictment to be the property of some one or more of the partners in such mining concerns, and others, his or their partners or co-adventurers, without naming such partners or co-adventurers;' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall and may be lawful, and shall be deemed sufficient, to all intents and purposes whatsoever, for the conviction of any offender or offenders charged in any indictment with grand or petty larceny for or on account of stealing any minerals, or any timber, iron, or other materials used in or for the working of mines, being the personal property of any company or adventurers carrying on the same, to alledge and aver that the minerals, timber, iron, or other materials so stolen are the property of some one or more of the partners or adventurers in such mining concern, and others his or their partners or co-adventurers, without naming such other partners or co-adventurers; and that such form of describing the property stolen from such company or adventurers shall be to all intents and purposes whatsoever, as valid and effectual in law, as if the same were averred to be the property of all the owners thereof, and as if the names of all such owners were particularly and distinctly set forth in such indictment; any law, custom, or usage to the contrary thereof in any wise notwithstanding.

What shall be deemed sufficient evidence for conviction.

[No. LII.] 58 George III. c. 70.—An Act for repealing such Parts of several Acts as allow pecuniary and other Rewards on the Conviction of Persons for Highway Robbery, and other Crimes and Offences; and for facilitating the means of prosecuting Persons accused of Felony and other Offences.—[3d *June* 1818.]

No. LII. 58 Geo. III. c. 70.

WHEREAS by an Act of Parliament made and passed in the fourth year of the reign of their late Majesties King *William* and Queen *Mary*, intituled, *An Act for encouraging the apprehending of Highwaymen*, it is enacted, that from and after the twenty-fifth day of *March*, one thousand six hundred and ninety-three, all and every person and persons

4 W. and M. c. 8.

No. LII.
58 Geo. III. c. 70.

who shall apprehend and take one or more thieves or robbers, and prosecute him or them so apprehended and taken, until he or they be convicted of any robbery committed in or upon any highway, passage, field, or open place, shall have and receive from the sheriff or sheriffs of the county where such robbery and conviction shall be made and done, without paying any fee for the same, for every such offender so convicted, the sum of forty pounds within one month after such conviction and demand thereof made, on tendering to such sheriff or sheriffs a certificate of such conviction, and that such felon or felons was or were taken by the person or persons claiming such reward; such certificate to be signed in manner thereby directed; and which said rewards on such convictions as aforesaid are by the said Act directed to be allowed to the respective sheriffs paying the same, or to their executors or administrators, in accounting with their said late Majesties, their heirs and successors: And whereas by an Act of Parliament made and passed in the sixth and seventh years of the reign of his late Majesty King *William* the Third, intituled, *An Act to prevent counterfeiting and clipping the Coin of this Kingdom*, it is enacted, that from and after the first day of *May* one thousand six hundred and ninety-five, all and every person and persons who shall apprehend and take any person or persons who shall have counterfeited any of the current coin of this realm, or that for lucre or gain shall have clipped, washed, filed, or any ways diminished the same, or shall bring or cause to be brought into this kingdom, the dominion of *Wales*, or town of *Berwick-upon-Tweed*, any clipt, false, or counterfeit coin, and prosecute such person or persons until he, she, or they be convicted of any such offence, shall have and receive from the sheriff or sheriffs of the county where such conviction shall be made, for every such offender so convicted, the sum of forty pounds, without paying any fee for the same, within one month after such conviction and demand thereof made, on tendering to such sheriff or sheriffs a certificate of such conviction, and that such traitor or traitors was or were taken and prosecuted by the person or persons claiming such reward, such certificate to be signed in manner thereby directed; and which rewards on such last-men-mentioned convictions are by the said last-mentioned Act directed to be allowed to the respective sheriffs paying the same, their executors or administrators, in accounting with his said late Majesty King *William* the Third: And whereas by an Act of Parliament made and passed in the tenth and eleventh years of the reign of his said late Majesty King *William* the Third, intituled, *An Act for the better apprehending, prosecuting, and punishing of Felons that commit Burglary, House-breaking, or Robbing in Shops, Warehouses, Coach-houses, or Stables, or that steal Horses*, it is enacted, that from and after the twentieth day of *May* one thousand six hundred and ninety-nine, all and every person and persons who shall apprehend and take any person guilty of any of the felonies therein-before mentioned, and prosecute, him, her, or them so apprehended and taken, until he, she, or they be convicted of any of the felonies thereinbefore mentioned, such apprehenders and takers, for his, her, or their reward, upon every such conviction, without any fee or reward to be paid for the same, shall have forthwith after every such conviction a certificate, to be signed in manner therein mentioned, certifying such conviction, and also within what parish or place the felony was committed, whereof any such person or persons was or were convicted as aforesaid, and also that such felon or felons was or were discovered and taken, or discovered or taken by the person or persons so discovering or apprehending any the said felon or felons, and which certificate shall or may be once assigned over, and no more, and the original proprietor of such certificate, or the assignee of the same, whomsoever of them shall have the interest therein, by virtue thereof, and of the said last-mentioned Act, shall and may be discharged of and from all and all manner of parish and ward offices within the parish or ward wherein the felony or felonies shall be committed, and such party or assignee is thereby declared to be discharged therefrom; which said certificate is directed to be enrolled in the manner therein mentioned: And whereas by an Act of Parliament made and passed in the fifth year of the reign of her late Majesty Queen *Anne*, intituled, *An Act for the encouraging the Discovery and apprehending of*

6 and 7 W. 3. c. 17.

10 & 11 W. 3. c. 23.

5 Anne, c. 31.

No. LII. 58 Geo. III. c. 70.

Housebreakers, it is enacted, that from and after the tenth day of *May* one thousand seven hundred and seven, all and every person and persons who shall apprehend and take any person or persons guilty of burglary, or the felonious breaking and entering of any house in the day-time, and prosecute him, her, or them so apprehended and taken, until he, she, or they be convicted of such burglary or felony, shall have and receive, over and above the rewards given by the said recited Act of the tenth and eleventh years of King *William* and Queen *Mary*, the sum of forty pounds, within one month after such conviction, to be paid by the sheriff or sheriffs of the county where such felony or burglary shall be made and done, without any fee for the same, to the person or persons so taking, apprehending, and prosecuting the said offenders, he and they tendering to such sheriff or sheriffs a certificate of such conviction, and in what parish the same was committed, and that such felon or felons was or were taken by the person or persons claiming such reward; such certificate to be signed in manner thereby directed; and which said rewards on such convictions as aforesaid are by the said last-recited Act directed to be allowed to the respective sheriffs paying the same, their executors or administrators, in their accounts: And whereas by an Act of Parliament made and passed in the fourteenth year of the reign of his late Majesty King *George* the Second, intituled,

14 G. 2. c. 6.

An Act to render the Laws more effectual for preventing the stealing and destroying of Sheep and other Cattle, it is enacted, that from and after the first day of *May* one thousand seven hundred and forty-one, all and every person and persons who shall apprehend and prosecute to conviction any offender or offenders guilty of any of the offences therein before-mentioned, shall have and receive as a reward, upon every such conviction, the sum of ten pounds, to be paid, within one month after such respective conviction, by the sheriff or sheriffs of the county where such offence or offences shall be committed and done, without any deduction, to the person or persons so apprehending and prosecuting such offender or offenders, he or they tendering to such sheriff or sheriffs a certificate of such conviction, and where the offence was committed, and that such offender or offenders was or were apprehended and prosecuted by the person or persons claiming such reward; such certificate to be signed in manner thereby directed; and which said rewards on such last-mentioned convictions are by the said last-mentioned Act directed to be allowed to the respective sheriffs paying the same, their executors or administrators, in their respective accounts: And whereas by an Act of Parliament made and passed in the fifteenth year of the reign of his said late Majesty King *George* the Second, intituled,

15 G. 2. c. 28.

An Act for the more effectual preventing the counterfeiting of the current Coin of this Kingdom, and the uttering or paying of false or counterfeit Coin, it is enacted, that whosoever shall, after the twenty-ninth day of *September* one thousand seven hundred and forty-two, apprehend any person or persons who shall have committed any of the offences thereby made high treason or felony, or who shall have made or counterfeited any of the copper money therein mentioned, and shall prosecute such offenders until he, she, or they shall be thereof convicted, such prosecutor and prosecutors shall have and receive from the sheriff or sheriffs of the county or city where such conviction shall be made, for every such offender so convicted of any of the treasons or felonies aforesaid, the sum of forty pounds; and for every person so convicted of counterfeiting any of the said copper money, the sum of ten pounds, without paying any fee for the same, within one month after such conviction and demand thereof made, by tendering a certificate to the said sheriff or sheriffs, certifying such conviction, and that the offender or offenders were apprehended and prosecuted by the persons claiming the said reward; such certificate to be signed in manner thereby directed; and which said rewards on such last-mentioned convictions are by the said last-mentioned Act directed to be allowed to any such sheriff or sheriffs upon his or their accounting with his said late Majesty King *George* the Second: And whereas it has been found by experience that the encouragement given by the said several recited Acts of Parliament, by way of pecuniary and other rewards, for the apprehension and prosecution to conviction of persons guilty of the several crimes and offences therein men-

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tioned or referred to, has not produced the wholesome effects of diminishing the crimes and offences thereby intended to be prevented or checked; and it has also been found by experience that the hope or expectation of obtaining such rewards, or some or one of them, or some other pecuniary reward or compensation, has instigated evil-disposed persons to conspire to entrap the unwary and ignorant into the commission of offences, for which they have afterwards been apprehended and prosecuted to conviction by such conspirators, whereby encouragement has not only been given to the commission of such crimes and offences, but the laws of God and man have been violently transgressed: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said recited Act of the fourth year of the reign of their said late Majesties King *William* and Queen *Mary*, as authorizes and directs the receipt and payment of the sum of forty pounds by way of reward by and to every person and persons who shall apprehend and take and prosecute to conviction one or more thieves or robbers, for any robbery committed in or upon any highway, passage, field, or open place, and for the allowance of the payment of such reward of forty pounds to the sheriff or sheriffs paying the same, or their executors or administrators, in the accounts of such sheriff or sheriffs; and also, that so much of the said recited Act of the sixth and seventh years of the reign of his said late Majesty King *William* the Third, as authorizes and directs the receipt and payment of the sum of forty pounds by way of reward by and to all and every person and persons who shall apprehend and take any person or persons who shall have counterfeited any of the current coin of this realm, or that for lucre or gain shall have clipped, washed, filed, or anyways diminished the same, or shall bring or cause to be brought into this kingdom, the dominion of *Wales*, or town of *Berwick-upon-Tweed*, any clipt, false, or counterfeit coin, and prosecute such person or persons until he, she, or they be convicted of any such last-mentioned offence or offences, and also as directs the allowance of the payment of such last-mentioned reward of forty pounds to the sheriff or sheriffs paying the same, or to their executors or administrators, in the accounts of such sheriff or sheriffs; and also that so much of the said recited Act of the fifth year of the reign of her said late Majesty Queen *Anne*, as authorizes and directs the receipt and payment of the sum of forty pounds by way of reward by and to all and every person and persons who shall apprehend and take any person or persons guilty of burglary, or the felonious breaking and entering of any house in the day-time, and prosecute him, her, or them so apprehended and taken, until he, she, or they be convicted of such burglary or felony, and also as directs the allowance of the payment of such last-mentioned reward of forty pounds, to the sheriff or sheriffs paying the same, or to their executors or administrators, in the accounts of such sheriff or sheriffs; and also that so much of the said recited Act of the fourteenth year of the reign of his said late Majesty King *George* the Second, as authorizes and directs the receipt and payment of the sum of ten pounds by way of reward, by and to all and every person and persons who shall apprehend and prosecute to conviction any offender or offenders who shall feloniously drive away, or in any other manner feloniously steal, one or more sheep of any other person or persons whatsoever, with a felonious intent to steal the whole carcase or carcases, or any part or parts of the carcase or carcases of any one or more sheep or other cattle that shall be so killed, or shall assist or aid any person or persons to commit any such offence or offences; and also as directs the allowance of the payment of such last-mentioned reward of ten pounds to the sheriff or sheriffs paying the same, or to their executors or administrators, in the accounts of such sheriff or sheriffs; and also that so much of the said recited Act of the fifteenth year of the reign of his said late Majesty King *George* the Second, as authorizes and directs the receipt and payment of the sum of forty pounds by way of reward by and to whoever shall apprehend any person or persons who shall have committed any of the offences by the same Act made high treason or felony, and the receipt and payment

So much of recited Acts as directs payment of rewards on convictions of certain crimes repealed.

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of the sum of ten pounds by way of reward by and to whoever shall in like manner apprehend any person or persons who shall have made or counterfeited any of the copper money therein mentioned, and shall prosecute such several and respective offenders until he, she, or they shall be thereof respectively convicted; and also as directs the allowance of the payment of such last-mentioned rewards of forty pounds and ten pounds to the sheriff or sheriffs paying the same, upon his or their accounting with his Majesty; shall be and the same is and are hereby severally and respectively repealed.

Certificates granted under 10 & 11 W. 3. c. 23. not to be transferrable.

II. And be it further enacted, That from and after the passing of this Act, no certificate which shall be granted, pursuant to the said recited Act of the tenth and eleventh years of the reign of King *William* the Third, to any person or persons who shall apprehend and take and prosecute to conviction any person guilty of any of the felonies therein-before mentioned, to discharge such person or persons so apprehending and prosecuting from parish and ward offices, shall be assignable or transferrable by the person or persons to whom such certificate shall be originally granted, to any person or persons whomsoever; nor shall any such certificate or certificates exempt or discharge from parish or ward offices any other person or persons whomsoever than the person or persons to whom the same was originally granted; the said recited Act of the tenth and eleventh years of the reign of King *William* the Third, or any other law, usage, or custom to the contrary in anywise notwithstanding.

Saving to the executors of persons killed by robbers, &c.

III. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to extend to take away from or deprive the executors or administrators of any person or persons who shall happen to be killed by any robber or robbers endeavouring to apprehend or in making pursuit after him or them, of any reward or rewards to which the executors or administrators of any person or persons so happening to be killed would be entitled by the said recited Act of the fourth year of the reign of their said late Majesties King *William* and Queen *Mary*; nor to deprive any person or persons of the horse, furniture and arms, money or other goods of any robber or robbers, and which by the same statute are directed to become the property of any person or persons who shall take, apprehend, prosecute, or convict any such robber or robbers as therein mentioned; nor shall any thing herein contained extend or be construed to extend to deprive the executors or administrators of any watchman or any other person or persons who shall happen to be killed by any burglar or housebreaker endeavouring to apprehend or in making pursuit after him or them, of any reward or rewards to which such executors or administrators would be entitled by virtue of the said recited Act of the fifth year of the reign of her said late Majesty Queen *Anne*.

Court empowered to order payment of expences of prosecution.

IV. And whereas many persons are deterred from prosecuting persons guilty of felony, upon account of the expence and loss of time attending such prosecutions, whereby the ends of justice are frequently defeated; be it therefore enacted by the authority aforesaid, That from and after the passing of this Act it shall and may be lawful for the Court before whom any person shall be prosecuted or tried for any grand or petit larceny or other felony, and every such Court is hereby authorized and empowered, at the request of the prosecutor, or any other person or persons who shall become bound in any recognizance to his Majesty, his heirs, and successors, to prosecute or give evidence, or who shall be subpœnaed to give evidence, against any person or persons accused of any grand or petit larceny or other felony, and who shall appear to prosecute and give evidence, or who shall appear to the said Court to have been active in the apprehension of any person or persons accused of any of the offences in the said herein-before recited Acts mentioned, or any of them, to order the sheriff or treasurer of the county in which the offence shall have been committed to pay unto such prosecutor and witnesses, and person or persons concerned in such apprehension as aforesaid, respectively, as hereinafter mentioned, as well the costs, charges, and expences which such prosecutor shall be put to in preferring the indictment or indictments against the person or persons so accused, as also such sum and sums of money as to the

said Court shall seem reasonable and sufficient to reimburse such prosecutor and witnesses, and person or persons concerned in such apprehension as aforesaid, for the expences they shall have been put severally to in attending before the grand jury to prefer such indictment or indictments, and in otherwise carrying on such prosecution, and also compensate such prosecutor and witnesses, and person or persons concerned in such apprehension as aforesaid, respectively for their loss of time and trouble in such apprehension and prosecution as aforesaid.

To be paid by the sheriff of the county.

V. And be it further enacted, That in case the said judge, justices, or court shall make any order and direction for the payment of any such sum or sums of money to any person or persons concerned in the apprehension and taking of any person or persons accused of any of the offences in the said herein-before recited Acts mentioned, or any of them, the same shall be paid by the sheriff of the county in which the offence shall have been committed; and in the like manner, upon the like certificate, and at the same period of time as the rewards are directed to be paid by the said recited Acts of fourth *William* and *Mary*, sixth *William* the Third, fifth *Anne*, the third and fourteenth and fifteenth *George* the Second; and that every such certificate shall be made out by the clerk of assize or clerk of the peace respectively, and be forthwith delivered to the person or persons entitled to the same, upon payment of the sum of five shillings for each such certificate; and that the sheriff of the county, upon payment of the sum of money specified in such certificate, shall be reimbursed the said sum of money in like manner as is directed by the said several and respective Acts herein-before recited.

The order for costs to be made by the clerk of assize, and to be paid by the treasurer of the county.

VI. And be it further enacted, That every such order for the costs and charges assigned by this Act to prosecutors and witnesses shall be made out by the clerk of assize or clerk of the peace respectively; which order the clerk of assize or clerk of the peace is hereby directed and required forthwith to make out and deliver unto such prosecutor, upon being paid for the same the sum of one shilling and no more; and the treasurer of the said county, riding, or division is hereby authorized and required, upon sight of such order, forthwith to pay to such prosecutor, or other person authorized to receive the same, such money as aforesaid, and shall be allowed the same in his account.

Notices by 25 Geo. 2. c. 36. directed to be given to constables in certain cases,

VII. Whereas by an Act of Parliament made and passed in the twenty-fifth year of the reign of his late Majesty King *George* the Second, intituled, *An Act for preventing Thefts and Robberies, and for regulating Places of Public Entertainment, and punishing persons keeping disorderly Houses*, it is amongst other things enacted, that if any two inhabitants of any parish or place, paying scot and bearing lot therein, do give notice in writing to any constable, or other peace officer of the like nature where there is no constable of such parish or place, of any person keeping a bawdy-house, gaming-house, or any other disorderly house in such parish or place, the constable or such officer as aforesaid so receiving such notice shall forthwith go with such inhabitants to one of his Majesty's justices of the peace of the county, city, riding, division, or liberty in which such parish or place does lie, and shall, upon such inhabitants making oath before such justice that they do believe the contents of such notice to be true, and entering into a recognizance in the penal sum of twenty pounds each to give or produce material evidence against such person for such offence, enter into a recognizance in the penal sum of thirty pounds to prosecute with effect such person for such offence at the next general or quarter-sessions of the peace, or at the next assizes to be holden for the county in which such parish or place does lie, as to the said justice shall seem meet: And whereas it is expedient, that when any two inhabitants of any parish or place, paying scot and bearing lot therein, shall give notice in writing to any constable of such parish or place of any person keeping a bawdy-house, gaming-house, or any other disorderly house, in such parish or place, that the overseers of the poor of such parish or place shall have notice thereof; therefore be it enacted, and it is hereby enacted, That a copy of the notice which shall be given to such constable shall also be served on or left at the places of abode of the overseers of the poor of such parish or place, or one of them, and such overseers or overseer of the poor shall be sum-

to be given also to the overseers of the poor;

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moned or have reasonable notice to attend before such justice of the peace before whom such constable shall have notice to attend; and if such overseers or overseer of the poor shall then and there enter into such recognizance to prosecute such offender as the constable is in and by the said Act required to enter into, then it shall not be necessary for, nor shall such constable be required to enter into such recognizance; but if such overseers or overseer of the poor shall neglect to attend such justice on having such notice, or shall attend, and shall decline or refuse to enter into such recognizance to prosecute, then such constable shall enter into the same, and shall prosecute, and shall be entitled to his expences, to be allowed as in and by the said Act is directed.

who are to prosecute.

To whom costs shall be paid.

VIII. Provided always, and be it further enacted, That no person or persons shall be entitled to any such costs or expences for attending the Court, unless he or they shall have been bound by recognizance, or have previously received a subpœna to attend the same, or a written notice for that purpose from the prosecutor, his agent, or his attorney.

In places which do not contribute to the county rate, and have no public stock, a separate rate to be levied for the purposes of this Act.

IX. And whereas there are several cities, towns corporate, and places which do not contribute to the payment of any county rate, and have no town rate or public stock; and doubts may arise whether such cities, towns corporate, and places can be legally rated and assessed towards the payments by this Act directed to be made; be it therefore enacted, That in all such cases the said costs, charges, expences, sum and sums of money, and compensations shall be raised, levied, collected, and paid within such cities, towns corporate, and places, by a separate rate and assessment to be made by the churchwardens and overseers of the poor of the several parishes and precincts within such cities, towns corporate, and places, and by such and the like ways, methods, and means, as the rates for the relief of the poor are, can, or may be raised, levied, and collected in such cities, towns corporate, and places.

Where sums are too small to be raised by a separate rate, such sums shall be paid out of the poors rate.

X. And whereas it may happen that the sums of money to be raised in the said cities, towns corporate, and places, or some or one of them, for the payments by this Act directed to be made, may be so small that it may not be convenient to make an equal separate rate and assessment for the same upon the said parishes and precincts within such cities, towns corporate, and places; be it enacted, That in such last-mentioned case, and when and so often as the same shall happen, the said costs, charges, expences, sum and sums of money, and compensations, shall and may, by order of the said Court before whom any such person may be tried as aforesaid, be paid out of the monies from time to time raised for the relief of the poor in the said several cities, towns corporate, and places, and the treasurers, or persons from time to time having the management of the said monies raised for the relief of the poor in the same cities, towns corporate and places respectively, are hereby authorized and required to pay the said sums of money so ordered to be paid as aforesaid, out of the said last-mentioned monies, when and as often as the same shall be so ordered: Provided always, that should there be more parishes than one in the same district, the payments are to be made and levied in such rates and proportions as the respective parishes pay to the poor rate.

[No. LIII.] 1 George IV. c. 102.—An Act for making general the Provisions of an Act made in the Forty-sixth Year of the Reign of his late Majesty, for removing Difficulties in the Conviction of Offenders stealing Property from Mines. —[24*th July* 1820.]

No. LIII. 1 Geo. IV. c. 102.

WHEREAS by an Act made in the fifty-sixth year of the reign of his late Majesty King *George* the Third, intituled, *An Act for removing Difficulties in the Conviction of Offenders stealing Property from Mines*, it is among other things enacted, That it shall and may be lawful, and shall be deemed sufficient to all intents and purposes whatsoever, for the

56 G. 3. c. 73.

conviction of any offender or offenders charged in any indictment with grand or petty larceny, for or on account of stealing any minerals, or any

No. LIII. 1 Geo. IV. c. 102.

timber, iron, or other materials used in or for the working of mines, being the personal property of any company or adventurers carrying on the same, to allege and aver that the minerals, timber, iron, or other materials so stolen, are the property of some one or more of the partners or adventurers in such mining concern and others his or their partners or adventurers, without naming such other partners or adventurers: And whereas the said enactment has been found to facilitate the conviction of offenders, and to promote the due administration of justice, without depriving persons accused of any fair means of defence: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, the provisions of the said Act, with respect to offenders charged as in the said Act is mentioned, shall be deemed and taken to extend to all cases of offenders charged in any indictment with burglary, felony, grand or petty larceny, or criminal breach of trust, committed on the goods, chattels, or personal property, of what nature soever, of any partners whatsoever, in as ample a manner as if they had been particularly specified in the said Act.

Extending Provisions of recited Act, to Burglaries,&c.

[No LIV.] 5 George IV. c. 30.—An Act to prevent the Stealing of Records Deeds and Papers in *Ireland*.—[17th *May* 1824.]

No. LIV. 5 Geo. IV. c. 30.

WHEREAS difficulties have arisen in the prosecution of persons who have stolen taken and carried away deeds, or other written papers, parchments, or pieces of vellum, concerning the proceedings in his Majesty's courts of justice in *Ireland*, and concerning the business of the offices of the several persons holding offices or employments under his Majesty in *Ireland*: For remedy thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, any person or persons who shall, in *Ireland*, steal, take, or secretly or forcibly carry away any record, deed, security, or instrument, or any paper, parchment, or piece of vellum, or any part thereof, written or printed, or partly written and partly printed, in anywise relating to or concerning the proceedings in his Majesty's courts of justice in *Ireland*, or concerning the business of any person holding any office or employment under his Majesty, and remaining or deposited for safe custody in any of the offices appertaining to the said courts of justice, or in his Majesty's castle of *Dublin*, or in any of his Majesty's custom houses post offices or other public offices in *Ireland*, shall be guilty of felony, and upon conviction thereof, upon indictment by due course of law, shall and may be transported for the term of seven years, in the manner prescribed by law for the transportation of offenders; or shall and may be sentenced to imprisonment with hard labour, and shall and may be imprisoned for any time not exceeding two years, as the court before whom such offender shall be tried shall think fit; and every such offender who shall be ordered to be imprisoned or transported shall be subject and liable to all laws concerning offenders ordered to be transported or imprisoned.

Stealing Records or other Instruments to be deemed Felony.

[No. LV.] 5 George IV. c. 107.—An Act to prevent the illegal pawning of Clothes and Stores belonging to *Chelsea Hospital*; to give further Powers to the Treasurer and Deputy Treasurer of *Chelsea* and *Greenwich* Hospitals; to punish Persons fraudulently receiving Prize Money or Pensions; and to enable the Commissioners of *Chelsea* Hospital to hold Lands purchased under the Will of Colonel *Drowly*.—[24th *June* 1824.]

No. LVI.
7 & 8 G. IV. c. 27.

[No. LVI.] 7 & 8 Geo. IV. c. 27.—An Act for repealing various Statutes in *England* relative to the Benefit of Clergy, and to Larceny and other Offences connected therewith, and to malicious Injuries to Property, and to Remedies against the Hundred.—[21st *June* 1827.]

WHEREAS it is expedient to repeal various statutes now in force in that part of the United Kingdom called *England*, relative to the benefit of clergy; and it is also expedient to repeal various statutes relative to larceny, and other offences of stealing, and to burglary robbery and threats for the purpose of robbery or of extortion, and to embezzlement false pretences and the receipt of stolen property in order that the provisions contained in those statutes may be amended and consolidated into one act; and it is also expedient with the same view to repeal various statutes relative to malicious injuries to property; and also with the same view to repeal various statutes relative to remedies against the hundred: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that so much of a charter or statute made in the ninth year of the reign of King *Henry* the Third, commonly called *Charta de Foresta*, as relates to the punishment for taking the King's venison; and so much of a statute made at *Westminster* in the third year of the reign of King *Edward* the First, as relates to clerks taken for guilty of felony, and to trespassers in parks and ponds; and so much of a statute made at *Westminster* in the thirteenth year of the same reign, as ordains that the towns near adjoining shall be distrained to levy at their own costs a hedge or dyke overthrown and to yield damages; and the whole of a statute made in the same year, intituled *Statutum Winton*, except so much thereof as forbids fairs and markets being kept in churchyards; and a statute made in the twenty-first year of the same reign, intituled *Statutum de Malefactoribus in Parcis*; and so much of a statute made in the first year of the reign of King *Edward* the Third, as relates to trespasses in the King's forests of vert and venison; and so much of a statute made in the twenty-fifth year of the same reign, intituled *Ordinatio pro Clero*, as relates to clerks convicted of treasons or felonies, and to the arraignments of clerks; and so much of a statute made in the twenty-eighth year of the same reign, as relates to making cry and fresh suit, and to hundreds and franchises being answerable as therein mentioned; and so much of a statute made in the thirty-fourth year, and of another statute made in the thirty-seventh year of the same reign, as relates to hawks; and so much of a statute made in the eighth year of the reign of King *Henry* the Sixth, as relates to the offences of stealing, taking away, withdrawing or avoiding of any record or other like thing therein mentioned; and so much of a statute made in the thirty-third year of the same reign, as relates to servants taking and spoiling the goods of their masters after their death; and an Act passed in the first year of the reign of King *Henry* the Seventh intituled "An Act against unlawful hunting in Forests and Parks;" and an Act passed in the fourth year of the same reign, intituled "An Act to take away the Benefit of Clergy from certain Persons;" and an Act passed in the twenty-first year of the reign of King *Henry* the Eighth, intituled "An Act for the Punishment of such Servants as shall withdraw themselves, and go away with their Masters or Mistresses' Caskets and other Jewels or Goods committed to them in Trust to be kept;" and an Act passed in the same year, intituled "An Act for Restitution to be made of the Goods of such as shall be robbed by Felons;" and an Act passed in the twenty-third year of the same reign, intituled "An Act that no Person committing Petty Treason Murder or Felony, shall be admitted to his Clergy under Subdeacon;" and an Act passed in the same year, intituled "An Act for breaking of Prison by Clerks Convict;" and an Act passed in the thirty-first year of the same reign, intituled "An Act

9 H. 3. st. 2. c. 10.
3 Ed. 1. c. 2. & 20.
13 Ed. 1. st. 1. c. 46.
13 Ed. 1. st. 2.
21 Ed. 1. st. 2.
1 Ed. 3. st. 1. c. 8.
25 Ed. 3. st. 6. (vulgo st. 3.) c 4. 5.
28 Ed. 3. c. 11.
31 Ed. 3. c. 22.
37 Ed. 3. c. 19.
8 H. 6. c. 12. s. 3.
33 H. 6. c. 1.
1 H. 7. c. 7.
4 H. 7. c. 13.
21 H. 8. c. 7.
21 H. 8. c. 11.
23 H. 8. c. 1.
23 H. 8. c. 11.
31 H. 8. c. 2.

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"against Fishing in Ponds;" and an Act passed in the thirty-third year of the same reign, intituled "An Act concerning counterfeit Letters, or "privy Tokens, to receive Money or Goods in other Men's Names;" and an Act passed in the thirty-fourth and thirty-fifth years of the same reign, intituled "An Act for a Certificate of Convicts to be made into the "King's Bench;" and an Act passed in the thirty-fifth year of the same reign, intituled "An Act for the Preservation of Woods;" and an Act passed in the thirty-seventh year of the same reign, intituled "An Act "against burning of Frames;" and so much of an Act passed in the same year, intituled "An Act that an Indictment lacking these Words, *Vi et* "*Armis*, shall be sufficient in Law," as relates to persons stealing any horse gelding, mare, foal or filley; and so much of an Act passed in the first year of the reign of King *Edward* the Sixth, intituled "An Act for "the Repeal of certain Statutes concerning Treasons, Felonies, etc.," as relates to house-breaking, robbing, horse-stealing, and sacrilege, and to the allowance of the benefit of clergy in any case therein mentioned; and an Act passed in the second and third years of the same reign, intituled "An Act that no Man stealing Horse or Horses shall enjoy the Benefit of "his Clergy;" and an Act passed in the fifth and sixth years of the same reign, intituled "An Act that no Man robbing any House Booth or Tent, "shall not be admitted to the Benefit of his Clergy;" and so much of an Act passed in the fourth and fifth years of the reign of King *Philip* and Queen *Mary*, intituled "An Act that Accessories in Murder and divers "Felonies shall not have the Benefit of Clergy," as relates to accessories to any robbery or burning therein mentioned; and an Act passed in the fifth year of the reign of Queen *Elizabeth*, intituled "An Act reviving "a Statute made Anno 21 H. 8. touching Servants embezzling their "Master's Goods;" and another Act passed in the same fifth year, intituled "An Act for the Punishment of unlawful taking of fish deer or "hawks;" and an Act passed in the eighth year of the same reign, intituled "An Act to take away the Benefit of Clergy from certain felonious "Offenders;" and so much of an Act passed in the thirteenth year of the same reign, intituled "An Act for the reviving and Continuance of certain "Statutes," as alters and perpetuates the Act of the thirty-fifth year of the reign of King *Henry* the Eighth herein-before recited; and so much an Act passed in the eighteenth year of the reign of Queen *Elizabeth*, intituled "An Act to take away Clergy from the Offenders in Rape and "Burglary, and an Order for the Delivery of Clerks Convict without Pur-"gation," as relates to burglary, and to persons admitted to the benefit of clergy; and an Act passed in the twenty-seventh year of the same reign, intituled "An Act for the following of Hue and Cry;" and an Act passed in the thirty-first year of the same reign, intituled "An Act against em-"bezzling of Armour Habiliments of War, and Victual;" and so much of an Act passed in the same year, intituled "An Act to avoid Horse-steal-"ing," as enacts that all accessories to horse-stealing shall be deprived of the benefit of clergy; and an Act passed in the thirty-ninth year of the same reign, intituled "An Act that no Person robbing any House in the "Day-time, although no Person be therein, shall be admitted to have the "Benefit of his Clergy;" and an Act passed in the forty-third year of the same reign, intituled "An Act to avoid and prevent divers Misdemeanors "in lewd and idle Persons;" and an Act passed in the same year, intituled "An Act for the more peaceable Government of the Parts of *Cumber-*"*land, Northumberland, Westmorland*, and the Bishoprick of *Durham*;" and so much of an Act passed in the second year of the reign of King *James* the First, intituled "An Act for the better Execution of the intent "and meaning of former Statutes made against shooting in Guns, and for "the Preservation of the Game of Pheasants and Partridges, and against "the destroying of Hares with Hare Pipes, and tracing Hares in the Snow," as relates to house doves pigeons and deer; and an Act passed in the third year of the same reign, intituled "An Act against unlawful hunting and "stealing of Deer and Conies;" and an Act passed in the seventh year of the same reign, for the explanation of the last-mentioned Act; and an Act passed in the fifteenth year of the reign of King *Charles* the Second, inti-

33 H. 8. c. 1.
34 & 35 H. 8. c. 11.
35 H. 8. c. 17.
37 H. 8. c. 6.
37 H. 8. c. 8. s. 2.
1 Ed. 6. c. 12. s. 10, 14.
2 & 3 Ed. 6. c. 33.
5 & 6 Ed. 6. c. 9.
4 & 5 P. & M. c. 4.
5 Eliz. c. 10.
5 Eliz. c. 21.
8 Eliz. c. 4.
13 Eliz. c. 25. s. 3, 18, 19.
18 Eliz. c. 7.
27 Eliz. c. 13.
31 Eliz. c. 4.
31 Eliz. c. 12. s. 5.
39 Eliz. c. 15.
43 Eliz. c. 7.
43 Eliz. c. 13.
2 Jac. 1. c. 27. recognized as existing in 2 G. 3. c. 29.
3 Jac. 1. c. 13. [This Act and the next are recognized as existing in 16 G. 3. c. 30.]
7 Jac. 1. c. 13. 15 Car. 2. c. 2.

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tuled "An Act for the Punishment of unlawful cutting or stealing or "spoiling of Wood and Underwood, and destroying of young Timber "Trees;" and an Act passed in the twenty-second year of the same reign, intituled "An Act for taking away the Benefit of Clergy from such as steal "Cloth from the Rack, and from such as shall steal His Majesty's Am-

22 Car. 2. c. 5.

"munition and Stores;" and an Act passed in the twenty-second and

22 & 23 Car. 2. c. 7.

twenty-third years of the same reign, intituled "An Act to prevent mali-

22 & 23 Car. 2. c. 11. s. 12.

"cious burning of Houses Stacks of Corn and Hay, and killing or maiming "of Cattle;" and so much of an Act passed in the same years, intituled "An "Act to prevent the Delivery up of Merchants Ships, and for the Increase "of good and serviceable Shipping," as relates to the wilful destruction of

22 & 23 Car. 2. c. 25. except s. 1 to 3.

any ship by any of the persons belonging to it, as therein mentioned; and an Act passed in the same years, intituled "An Act for the better Preser-"vation of the Game, and for securing Warrens not enclosed, and the "several Fishings of this Realm," so far as relates to all subjects therein mentioned, except the appointment and powers of gamekeepers search warrants and the description of persons, who are thereby declared to be persons not allowed to have or keep for themselves or any other person any guns, bows, greyhounds, or other animals or things therein enumerated; and an Act passed in the third year of the reign of King *William* and Queen *Mary*, intituled "An Act to take away Clergy from some Offend-"ers, and to bring others to Punishment;" and so much of an Act passed in the fourth year of the same reign, intituled "An Act for the more easy "Discovery and Conviction of such as shall destroy the Game of this "Kingdom," as relates to pigeons and fish, and to persons wrongfully fishing, and to all instruments and engines for destroying or taking fish;

3 W. & M. c. 9.

4 W. & M. c. 23.

4 W. & M. c. 24. s. 13.

and to the burning of any grig, ling, heath, furze, goss, or fern; and so much of an Act passed in the fourth year of same reign, intituled "An "Act for reviving continuing and explaining several Laws therein men-"tioned, which are expired and near expiring," as explains the said recited Act of the third year of the same reign; and the whole of an Act passed

10 W. 3. c. 12. (vulgo 10 & 11 W. 3. c. 23.) except s. 7 & 8.

in the tenth year of the reign of King *William* the Third, intituled "An "Act for the better apprehending prosecuting and punishing of Felons "that commit Burglary House-breaking or Robbery in Shops, Ware-"houses, Coach-houses, or Stables, or that steal Horses," except so much thereof as relates to fees for discharging recognizances and drawing bills of

1 Ann. st. 2. c. 9. except s. 3.

indictment, and to defective bills of indictment; and the whole of an Act passed in the first year of the reign of Queen *Anne*, intituled "An Act for "punishing of Accessories to Felonies and Receivers of Stolen Goods, and "to prevent the wilful burning and destroying of Ships," except so much thereof as relates to witnesses on behalf of the prisoner upon any trial for

6 Ann. c. 9. (vulgo 5 Ann. c. 6.)

treason or felony; and an Act passed in the sixth year of the same reign, intituled "An Act for repealing a Clause in an Act, intituled 'An Act for "'the better apprehending prosecuting and punishing Felons that com-"'mit Burglaries House-breaking or Robberies in Shops, Warehouses,

12 Ann. st. 1. c. 7.

"'Coach-houses, or Stables, or that steal Horses;'" and an Act passed in the twelfth year of the same reign, intituled "An Act for the more "effectual preventing and punishing Robberies that shall be com-

13 Ann. c. 21. (vulgo 12 Ann. st. 2.) c. 18. s. 4 & 5.

"mitted in Houses;" and so much of an Act passed in the thirteenth year of the same reign, intituled "An Act for the preserving all such "Ships, and Goods thereof, which shall happen to be forced on Shore or "stranded upon the Coasts of this Kingdom, or any other of her Majes-"ty's Dominions," as relates to any person upon whom any goods stolen or carried off from any vessel in distress shall be found, and to the several offences touching vessels in distress which are thereby made capital felo-

1 G. 1. st. 2. c. 5. s. 4 & 6.

nies; and so much of an Act passed in the first year of the reign of King *George* the First, intituled "An Act for preventing Tumults and "riotous Assemblies, and for the more speedy and effectual punishing "the Rioters," as relates to any rioters demolishing or pulling down, or beginning to demolish or pull down, any of the buildings therein mentioned, and to the liability of the inhabitants of the hundred city or town, in which the damage shall be done, to yield damages to the party injured;

1 G. 1. st. 2. c. 18.

and an Act passed in the same year, intituled "An Act to encourage the

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" planting of Timber Trees Fruit Trees and other Trees for Ornament " Shelter or Profit, and for the better Preservation of the same, and for " the preventing the burning of Woods;" and the whole of an Act passed in the fourth year of the same reign, intituled " An Act for the " further preventing Robbery, Burglary, and other Felonies, and for the " more effectual Transportation of Felons and unlawful Exporters of " Wool, and for declaring the Law upon some Points relating to Pirates," except so much thereof as relates to the trial of piracy felony or robbery committed within the Admiralty jurisdiction; and an Act passed in the fifth year of the same reign, intituled " An Act for the further Punish- " ment of such Persons as shall unlawfully kill or destroy Deer in Parks " Paddocks or other inclosed Grounds;" and an Act passed in the sixth year of the same reign, intituled " An Act to explain and amend an Act " passed in the First Year of His Majesty's Reign, intituled ' An Act to " ' encourage the planting of Timber Trees Fruit Trees and other Trees " ' for Ornament Shelter or Profit, and for the better Preservation of the " ' same, and for the preventing the burning of Woods,' and for the bet- " ter Preservation of the Fences of such Woods;" and an Act passed in the ninth year of the same reign, intituled " An Act for the more effectual " punishing wicked and evil-disposed Persons going armed in Disguise, " and doing Injuries and Violences to the Persons and Properties of His " Majesty's Subjects, and for the more speedy bringing the offenders to " Justice;" and so much of an Act passed in the second year of the reign of King *George* the Second, intituled " An Act for the more effec- " tual preventing and further Punishment of Forgery Perjury and Subor- " nation of Perjury, and to make it Felony to steal Bonds, Notes, or " other Securities for Payment of Money," as relates to the stealing or taking by robbery any orders or other securities therein enumerated; and an Act passed in the fourth year of the same reign, intituled " An Act for " the more effectual punishing Stealers of Lead or Iron Bars fixed to " Houses, or any Fences belonging thereunto;" and an Act passed in the sixth year of the same reign, intituled " An Act for making perpetual " the several Acts therein-mentioned, for the better Regulation of Juries; " and for empowering the Justices of Session or Assizes for the Coun- " ties Palatine of *Chester Lancaster*, and *Durham*, to appoint a Special " Jury in manner therein mentioned; and for continuing the Act for re- " gulating the Manufacture of Cloth in the West Riding of the County of " *York*, (except a Clause therein contained;) and for continuing an Act " for the more effectual punishing wicked and evil-disposed Persons going " armed in Disguise, and for other Purposes therein mentioned; and to " prevent the cutting or breaking down the Bank of any River, or any " Sea Bank, and to prevent the malicious cutting of Hopbinds; and for " continuing an Act made in the Thirteenth and Fourteenth Years of the " Reign of King *Charles* the Second, for preventing Theft and Rapine " upon the Northern Borders of *England*; and for reviving and continu- " ing certain Clauses in Two other Acts made for the same purpose;" and an Act passed in the eighth year of the reign of King *George* the Second, intituled " An Act for the Amendment of the Law relating to " Actions on the Statute of Hue and Cry;" and an Act passed in the same year, intituled " An Act for rendering the Laws more effectual for " punishing such Persons as shall wilfully and maliciously pull down or " destroy Turnpikes for repairing Highways, or Locks or other Works " erected by Act of Parliament for making Rivers navigable, and for " other Purposes therein mentioned;" and an Act passed in the tenth year of the same reign, intituled " An Act for continuing an Act for " the more effectual punishing wicked and evil-disposed Persons going " armed in Disguise, and doing Injuries and Violences to the Persons " and Properties of His Majesty's Subjects, and for the more speedy " bringing the Offenders to Justice; and for continuing Two Clauses, to " prevent the cutting or breaking down the Bank of any River or Sea " Bank, and to prevent the malicious cutting of Hopbinds, contained in " an Act passed in the Sixth Year of His present Majesty's Reign; and

4 G. 1. c. 11. except s. 7.

5 G. 1. c. 28.

6 G. 1. c. 16.

9 G. 1. c. 22.

2 G. 2. c. 25. s. 3.

4 G. 2. c. 32.

6 G. 2. c. 37.

8 G. 2. c. 16.

8 G. 2. c. 20.

10 G. 2. c. 32. except s. 10.

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" for the more effectual Punishment of Persons removing any Materials " used for securing Marsh or Sea Walls or Banks, and of Persons mali- " ciously setting on fire any Mine Pit or Delph of Coal or Cannel Coal, " and of Persons unlawfully hunting or taking any Red or Fallow Deer " in Forests or Chases, or beating or wounding Keepers or other Officers " in Forests Chases or Parks; and for more effectually securing the " Breed of Wild Fowl," except so much thereof as relates to Wild Fowl;

11 G. 2. c. 22. s. 5. to the End. and so much of an Act passed in the eleventh year of the same reign, intituled " An Act for punishing such Persons as shall do Injuries and " Violences to the Persons or Properties of His Majesty's Subjects, with " Intent to hinder the Exportation of Corn," as relates to the liability

13 G. 2. c. 21. of the inhabitants of hundreds; and an Act passed in the thirteenth year of the same reign, intituled " An Act for further and more effectually " preventing the wilful and malicious Destruction of Collieries and

14 G. 2. c. 6. " Coal Works;" and an Act passed in the fourteenth year of the same reign, intituled " An Act to render the Laws more effectual for the " preventing the stealing and destroying of Sheep and other Cattle;"

15 G. 2. c. 34. and an Act passed in the fifteenth year of the same reign, intituled " An Act to explain an Act made in the Fourteenth Year of the " Reign of His present Majesty, intituled ' An Act to render the Laws " ' more effectual for preventing the stealing and destroying of Sheep and

22 G. 2. c. 24. " ' other Cattle;' " and an Act passed in the twenty-second year of the same reign, intituled " An Act for remedying Inconveniences which may

22 G. 2. c. 46. s. 34. happen by Proceedings in Actions on the Statute of Hue and Cry; and so much of an Act passed in the same year, for (among other purposes) ascertaining the method of levying writs of execution against the Inhabitants of hundreds as relates to such writs and the proceedings there-

24 G. 2. c. 45. upon; and an Act passed in the twenty-fourth year of the same reign, intituled " An Act for the more effectual preventing of Robberies and " Thefts upon any Navigable Rivers Ports of Entry or Discharge Wharfs

25 G. 2. c. 10. " and Keys adjacent;" and an Act passed in the twenty-fifth year of the same reign, intituled " An Act for the more effectual securing Mines of

25 G. 2. c. 36. s. 1. " Black Lead from Theft and Robbery;" and so much of an Act passed in the same year, intituled " An Act for the better preventing Thefts " and Robberies, and for regulating Places of Public Entertainment, and " punishing Persons keeping disorderly Houses," as relates to the adver-

26 G. 2. c. 19. s. 1, 2, 3, 4, & 8. tisements therein prohibited; and so much of an Act passed in the twenty-sixth year of the same reign, intituled " An Act for enforcing the Laws " against Persons who shall steal or detain shipwrecked Goods, and for " the Relief of Persons suffering Losses thereby;" as relates to any of the felonies therein mentioned, and to search warrants, and to property belonging to any vessel lost stranded or cast on shore, being found in any place or in the possession of any person, and to any person offering or ex-

28 G. 2. c. 19. s. 3. posing to sale any such property, as therein respectively mentioned; and so much of an Act passed in the twenty-eighth year of the same reign, for (among other purposes) preventing the burning or destroying of goss furze or fern in forests or chases, as relates to persons burning or destroy-

29 G. 2. c. 30. ing the same; and an Act passed in the twenty-ninth year of the same reign, intituled " An Act for more effectually discouraging and prevent- " ing the stealing, and the buying and receiving stolen Lead, Iron, Copper, " Brass, Bell-metal and Solder, and for more effectually bringing the Of-

29 G. 2. c. 36. s. 6, 7, 8, & 9. " fenders to Justice;" and so much of an Act passed in the same year, intituled " An Act for inclosing, by the mutual Consent of the Lords and " Tenants, Part of any Common, for the Purpose of planting and preserv- " ing Trees fit for Timber or Underwood, and for more effectually prevent- " ing the unlawful Destruction of Trees," as relates to the remedy for the recovery of damages against the inhabitants of the adjoining parishes, towns, hamlets, villages or places, and to the punishment of the several offences relating to trees, and to the explanation respecting the three Acts

30 G. 2. c. 24. s. 1. of King *George* the First, as therein respectively mentioned; and so much of an Act passed in the thirtieth year of the same reign, intituled " An " Act for the more effectual Punishment of Persons who shall attain or " attempt to attain possession of Goods or Money by false or untrue pre-

" tences; for preventing the unlawful pawning of Goods; for the easy Re- No. LVI.
" demption of Goods pawned; and for preventing Gaming in Public 7 & 8 G. IV.
" Houses by Journeymen, Labourers, Servants and Apprentices," as re- c. 27.
lates to obtaining by false pretence or pretences any property as therein
mentioned; and an Act passed in the thirty-first year of the same reign, 31 G. 2. c. 35.
intituled, " An Act to continue several Laws therein mentioned, for
" granting a Liberty to carry Sugars, of the Growth Produce or Manu-
" facture of any of His Majesty's Sugar Colonies in *America*, from the
" said Colonies directly into Foreign Parts, in Ships built in *Great Britain*
" and navigated according to Law; for the preventing the committing of
" Frauds by Bankrupts; for giving further Encouragement for the Impor-
" tation of Naval Stores from the *British* Colonies in *America*; and for
" preventing Frauds and Abuses in the Admeasurement of Coals in the
" City and Liberty of *Westminster*; and for preventing the stealing or de-
" stroying of Madder Roots;" and an Act passed in the second year of the 2 G. 3. c. 29.
reign of King *George* the Third, intituled " An Act to amend so much
" of an Act made in the First Year of the Reign of King *James* the First,
" intituled ' An Act for the better Execution of the Intent and Meaning
" ' of former Statutes made against shooting in Guns, and for the Pre-
" ' servation of the Game of Pheasants and Partridges, and against the
" ' destroying of Hares with Hare Pipes, and tracing Hares in the Snow,'
" as relates to the Preservation of House Doves and Pigeons, by making
" the Manner of convicting such Person or Persons as shall offend therein
" more easy and expeditious;" and an Act passed in the fourth year of the 4 G. 3. c. 12.
reign of King *George* the Third, intituled " An Act to continue several
" Laws for the better Regulation of Pilots for the conducting of Ships and
" Vessels from *Dover Deal* and the Isle of *Thanet*, up the Rivers *Thames*
" and *Medway*; relating to the landing of Rum or Spirits of the *British*
" Sugar Plantations before the Duties of Excise are paid thereon; and to
" the further Punishment of Persons going armed or disguised in defiance
" of the Laws of Customs or Excise; and to the Relief of the Officers of
" the Customs in Informations upon Seizures; and for granting a Liberty to
" carry Sugars, of the Growth Produce or Manufacture of His Majesty's
" Sugar Colonies, directly into Foreign Parts, in Ships built in *Great*
" *Britain* and navigated according to Law; and for punishing Persons
" who shall damage or destroy any Banks, Floodgates, Sluices, or other
" Works belonging to the Rivers and Streams made navigable by Act of
" Parliament;" and an Act passed in the same year, intituled " An Act 4 G. 3. c. 31.
" to indemnify such Persons as have omitted to qualify themselves for
" Offices and Employments, and to indemnify Justices of the Peace, De-
" puty Lieutenants, and Officers of the Militia, or others who have omit-
" ted to register or deliver in their Qualifications within the Time limited
" by Law, and for giving further Time for those Purposes; and to indem-
" nify Members and Officers in Cities Corporations and Borough Towns,
" whose admissions have been omitted to be stamped according to the se-
" veral Acts of Parliament now in force for that Purpose, or having been
" stamped have been lost or mislaid, and for allowing them Time to provide
" Admissions duly stamped; and to prevent the Destruction of Trees and
" Underwoods growing in Forests and Chases;" and an Act passed in the 5 G. 3. c. 14.
fifth year of the same reign, intituled " An Act for the more effectual
" Preservation of Fish in Fish Ponds and other Waters, and Conies in
" Warrens, and for preventing the Damage done to Sea Banks within the
" County of *Lincoln* by the breeding Conies therein;" and an Act passed 6 G. 3. c. 36.
in the sixth year of the same reign, intituled " An Act for encouraging
" the Cultivation, and for the better Preservation of Trees, Roots, Plants,
" and Shrubs;" and another Act passed in the same year, intituled " An 6 G. 3. c. 48.
" Act for the better Preservation of Timber Trees, and of Woods and Un-
" derwoods, and for the further Preservation of Roots Shrubs and Plants;"
and an Act passed in the ninth year of the same reign intituled " An Act 6 G. 3. c. 29.
" for the more effectual Punishment of such Persons as shall demolish
" or pull down burn or otherwise destroy or spoil any Mill or Mills, and for
" preventing the destroying or damaging of Engines for draining Collieries
" and Mines, or Bridges Waggonways or other things used in conveying

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9 G. 3. c. 41. " Coals, Lead, Tin, or other Minerals from Mines, or Fences for inclos- " ing Lands in pursuance of Acts of Paliament;" and an Act passed in the same year, intituled "An Act for better securing the Duties of Customs " upon certain Goods removed from the Out Ports and other Places to " *London;* for regulating the Fees of Officers of His Majesty's Customs in " the Province of *Senegambia* in *Africa;* for allowing to the Receivers Ge- " neral of the Duties on Offices and Employments, in *Scotland,* a proper " Compensation for their Trouble and Expences; for the better Preserva- " tion of Hollies Thorns and Quicksets in Forests Chases and private " Grounds, and of Trees and Underwoods in Forests and Chases; and for " authorizing the Exportation of a limited quantity of an inferior Sort of " Barley called Bigg, from the Port of *Kirkwall* in the Islands of *Orkney;*"

10 G. 3. c. 18. and an Act passed in the tenth year of the same reign, intituled "An Act

10 G. 3. c. 48. " for preventing the stealing of Dogs;" and another Act passed in the same year, intituled "An Act for making the receiving of stolen Jewels, " and Gold and Silver Plate, in the Case of Burglary and Highway Rob-

13 G. 3. c. 31. s. 4 & 5. " bery, more penal;" and so much of an Act passed in the thirteenth year of the same reign, intituled " An Act for the more effectual Execution of " Criminal Laws in the Two Parts of the United Kingdom," as relates to the prosecution and punishment of persons for theft or larceny, and for

13 G. 3. c. 32. receiving or having any stolen property as therein mentioned; and an Act passed in the same year, intituled, "An Act for repealing so much of an " Act made in the Twenty-third Year of His late Majesty King *George* " the Second, as relates to the preventing the stealing or destroying of " Turnips; and for the more effectually preventing the stealing or destroy-

13 G. 3. c. 33. " ing of Turnips, Potatoes, Cabbages, Parsnips, Pease, and Carrots;" and another Act passed in the same thirteenth year, intituled " An Act to ex- " tend the Provisions of an Act made in the Sixth Year of His present " Majesty's Reign, intituled 'An Act for the better Preservation of Tim- " 'ber Trees, and of Woods and Underwoods, and for the further Pre- " 'servation of Roots Shrubs and Plants,' to Poplar, Alder, Maple, Larch,

16 G. 3. c. 30. " and Hornbeam;" and an Act passed in the sixteenth year of the same reign, intituled "An Act more effectually to prevent the stealing of " Deer, and to repeal several former Statutes made for the like purpose;"

19 G. 3. c. 74. except s. 70. and the whole of an Act passed in the nineteenth year of the same reign; intituled " An Act to explain and amend the Laws relating to the " Transporation Imprisonment and other Punishment of certain Offend-

21 G. 3. c. 68. " ers," except so much thereof as relates to the judges lodgings; and an Act passed in the twenty-first year of the same reign, intituled "An Act to " explain and amend an Act made in the Fourth Year of the Reign of " His late Majesty King *George* the Second, intituled 'An Act for the

21 G. 3. c. 69. " 'more effectual punishing Stealers of Lead and Iron Bars fixed to " 'Houses, or any Fences belonging thereunto;'" and another Act passed in the same twenty-first year, intituled " An Act to explain and " amend an Act made in the twenty-ninth year of the reign of his late " Majesty King *George* the Second, intituled 'An Act for more effectual- " 'ly discouraging and preventing the stealing, and the buying and re- " 'ceiving of stolen Lead, Iron, Copper, Brass, Bell-metal, and Solder,

22 G. 3. c. 58. " 'and for more effectually bringing the Offenders to Justice:'" and an Act passed in the twenty-second year of the reign of King *George* the Third, intituled "An Act for the more easy Discovery and effectual Punishment

31 G. 3. c. 35. " of Buyers and Receivers of Stolen Goods;" and an Act passed in the thirty-first year of the same reign, intituled "An Act to render Persons

31 G. 3. c. 51. " convicted of Petty Larceny competent Witnesses;" and an Act passed in the same year, intituled "An Act for better protecting the several

33 G. 3. c. 67. s. 5 & 6. " Oyster Fisheries within this Kingdom;" and so much of an Act passed in the thirty-third year of the same reign, intituled " An Act for better " preventing Offences in obstructing destroying or damaging ships or " other Vessels, and in obstructing Seamen, Keelmen, Casters, and Ship " Carpenters, from pursuing their lawful Occupations," as relates to Per-

36 G. 3. c. 9. s. 3. to the End. sons who shall wilfully and maliciously set fire to, or destroy or damage otherwise than by fire, any ship keel or other vessel; and so much of an Act passed in the thirty-sixth year of the same reign, intituled " An Act

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" to prevent Obstructions to the free Passage of Grain within the King-
" dom," as relates to the liability of the inhabitants of hundreds; and an
Act passed in the thirty-ninth year of the same reign, intituled "An Act
" to protect Masters against Embezzlements by their Clerks or Servants;"
and so much of an Act passed in the thirty-ninth and fortieth years of the 39 G. 3. c. 85.
same reign, intituled " An Act for the Security of Collieries and Mines, 39 & 40 G. 3.
" and for the better Regulation of Colliers and Miners," as declares what c. 77. s. 1 & 5.
persons shall be deemed and adjudged to be guilty of a misdemeanor, and
as relates to any person who shall steal or take away, or break, destroy,
damage, or embezzle, any article not exceeding the value of five shillings,
as therein mentioned, or shall break destroy or damage any waggon, cart, 41 G. 3. c. 24.
or other carriage as therein mentioned; and an Act passed in the forty- (U. K.)
first year of the same reign, intituled " An Act for the indemnifying of
" Persons injured by the forcible pulling down and demolishing of Mills,
" or of Works thereunto belonging, by Persons unlawfully and riotously
" assembled;" and an Act passed in the forty-second year of the same 42 G. 3. c. 67.
reign, intituled " An Act to extend the Provisions of an Act made in the
" Thirteenth Year of the Reign of his present Majesty, intituled ' An Act
" ' for repealing so much of an Act made in the Twenty-third Year of his
" ' late Majesty King *George* the Second, as relates to the preventing the
" ' stealing or destroying of Turnips, and for the more effectually prevent-
" ' ing the stealing or destroying of Turnips, Potatoes, Cabbages, Pa -
" ' snips, Pease, and Carrots,' to certain other Field Crops, and to Or-
" chards; and for amending the said Act;" and an Act passed in the 42 G. 3. c. 107.
same forty-second year, intituled "An Act more effectually to pre- 43 G. 3. c. 58.
" vent the stealing of Deer;" and so much of an Act passed in the Part of s. 1.
forty-third year of the same reign, intituled " An Act for the further Pre-
" vention of malicious shooting, and attempting to discharge loaded Fire
" Arms, stabbing, cutting, wounding, poisoning, and the malicious using
" of Means to procure the Miscarriage of Women; and also the malicious
" setting fire to Buildings; and also for repealing a certain Act made in
" *England* in the Twenty-first Year of the late King *James* the First, in-
" tituled ' An Act to prevent the destroying and murdering of Bastard
" ' Children;' and also an Act made in *Ireland* in the Sixth Year of the
" Reign of the late Queen *Anne*, also intiutled 'An Act to prevent the de-
" ' stroying and murdering of Bastard Children;' and for making other
" Provisions in lieu thereof," as relates to the setting fire to any build-
ings therein enumerated: and the whole of an Act passed in the same forty-
third year, intituled "An Act for the more effectually providing for the Pun- 43 G. 3. c. 113.
" ishment of offences in wilfully casting away, burning, or destroying Ships except s. 6.
" or Vessels; and for the more convenient Trial of Accessories in Felonies;
" and for extending the Powers of an Act made in the Thirty-third Year
" of the Reign of King *Henry* the Eighth, as far as relates to Murders to
" Accessories to Murders and to Manslaughters," except so much there-
of as specially relates to Accessories before the fact in murder, and to
manslaughter; and so much of an Act passed in the forty-fourth year of 44 G. 3. c. 92.
King George the *Third*, intituled " An Act to render more easy the ap- s. 7 & 8.
" prehending and bringing to Trial Offenders escaping from one Part of
" the United Kingdom to the other, and also from one County to another,"
as relates to the prosecution and punishment of persons for theft or lar-
ceny, and for receiving or having any stolen property, as therein men-
tioned; and an Act passed in the forty-fifth year of the same reign, in- 45 G. 3. c. 66.
tituled " An Act to prevent in *Great Britain* the illegally carrying away
" Bark; and for amending Two Acts passed in the Sixth and Ninth
" Years of His present Majesty's Reign, for the Preservation of Timber
" Trees, Underwoods, Roots, Shrubs, Plants, Hollies, Thorns, and Quick-
" sets;" and an Act passed in the forty-eighth year of the same reign, 48 G. 3. c. 129.
intituled " An Act to repeal so much of an Act passed in the Eighth
" Year of the Reign of Queen *Elizabeth*, intituled ' An Act to take away
" ' the Benefit of Clergy from certain Offenders for Felony,' as takes
" away the Benefit of Clergy from Persons stealing privily from the Per-
" son of another; and for more effectually preventing the Crime of
" Larceny from the Person;" and an Act passed in the same forty-eighth 48 G. 3. c. 144.

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year, intituled "An Act for the more effectual Protection of Oyster "Fisheries and the Brood of Oysters in *England*;" and an Act passed in the fifty-first year of the same reign, intituled "An Act to repeal so "much of an Act passed in the Eighteenth Year of the Reign of King "*George* the Second, intituled 'An Act for the more effectually pre-
51 G. 3. c. 41. "'venting the stealing of Linen, Fustian, and Cotton Goods and Wares, "'in Buildings, Fields, Grounds, and other Places used for printing, "'whitening, bleaching or dyeing the same,' as takes away the Benefit "of Clergy from Persons stealing Cloth in Places therein mentioned; "and for more effectually preventing such Felonies;" and an Act passed
51 G. 3. c. 120. "in the same fifty-first year, intituled "An Act to amend an Act of the "Forty-seventh Year of His present Majesty, for more effectually pre-
52 G. 3. c. 63. "venting the stealing of Deer;" and an Act passed in the fifty-second year of the same reign, intituled "An Act for more effectually prevent-"ing the Embezzlement of Securities for Money and other Effects left "or deposited for safe Custody, or other special Purpose, in the Hands
52 G. 3. c. 64. "of Bankers, Merchants, Brokers, Attornies, or other Agents;" and an Act passed in the same year, intituled "An Act for extending the Pro-"visions of an Act of the Thirtieth Year of King *George* the Second, "against Persons obtaining Money by false Pretences, to Persons so ob-
52 G. 3. c. 130. "taining Bonds and other Securities;" and another Act passed in the same fifty-second year, intituled "An Act for the more effectual Punish-"ment of Persons destroying the Properties of His Majesty's Subjects, "and enabling the Owners of such Properties to recover Damages for
53 G. 3. c. 162. "the Injury sustained;" and so much of an Act passed in the fifty-third "year of the same reign, intituled "An Act to repeal a certain Provision "respecting Persons convicted of Felony without Benefit of Clergy, con-"tained in an Act made in the Fifty-second Year of the Reign of His "present Majesty, for the Erection of a Penitentiary House for the Con-"finement of Persons convicted within the City of *London* and County
56 G. 3. c. 125. "of *Middlesex*, and for making other Provisions in lieu thereof," as relates to the Punishment of Larceny; and an Act passed in the fifty-sixth year of the same reign, intituled "An Act for the more effectual Punishment "of Persons riotously destroying or damaging Buildings Engines and "Machinery used in and about Collieries and other Mines, Waggonways, "Bridges, and other Works used in conveying and shipping Coals and
57 G. 3. c. 19. "other Minerals; and for enabling the Owners of such Property to re-
s. 38. "cover Damages for the injury sustained;" and so much of An Act passed in the fifty-seventh year of the same reign, intituled "An Act for "the more effectually preventing Seditious Meetings and Assemblies,"
1 G. 4. c. 56. as relates to the liability of the inhabitants of the city town or hundred, to yield compensation to the party injured, as therein-mentioned; and an Act passed in the first year of the reign of his present Majesty, intituled "An Act for the summary Punishment, in certain Cases, of Persons "wilfully or maliciously damaging or committing Trespasses on public
1 G. 4. c. 115. "or private Property;" and the whole of an Act passed in the same year, intituled "An Act to repeal so much of the several Acts passed in "the Thirty-ninth Year of the Reign of *Elizabeth*, the Fourth of *George* "the First, the Fifth and Eighth of *George* the Second, as inflicts Capital "Punishment on certain Offences therein specified, and to provide more "suitable and effectual Punishment for such Offences," except so much
1 G. 4. c. 117. thereof as relates to the offences made capital by the said Act of Queen *Elizabeth*; and another Act passed in the same year of the present reign, intituled "An Act to repeal so much of an Act passed in the Tenth and "Eleventh Years of King *William* the Third, intituled 'An Act for the "'better apprehending prosecuting and punishing of Felons that com-"'mit Burglary House-breaking or Robbery, in Shops, Warehouses, "'Coach-houses, or Stables, or that steal Horses,' as takes away the Bene-"fit of Clergy, from Persons privately stealing, in any Shop, Warehouse, "Coach-house, or Stable, any Goods Wares or Merchandizes of the Value "of Five Shillings; and for more effectually preventing the Crime of steal-"ing privately in Shops, Warehouses, Coach-houses, or Stables;" and an
3 G. 4. c. 24. Act passed in the third year of the present reign, intituled "An Act for

"extending the Laws against Receivers of Stolen Goods to Receivers of "Stolen Bonds, Bank Notes, and other Securities for Money;" and an Act passed in the same year, intituled "An Act for altering and amending several Acts passed in the First and Ninth Years of the Reign of King *George* the First, and in the Forty-first, Fifty-second, Fifty-sixth, and Fifty-seventh Years of the Reign of His late Majesty King *George* the Third, so far as the same relate to the Recovery of Damages committed by riotous and tumultuous Assemblies, and unlawful and malicious Offenders;" and the whole of an Act passed in the same year of the present reign, intituled "An Act for the further and more adequate Punishment of Persons convicted of Manslaughter, and of Servants convicted of robbing their Masters, and of Accessories before the Fact to Grand Larceny, and certain other Felonies," except so far as relates to manslaughter; and so much of another Act passed in the same year, intituled "An Act to provide for the more effectual Punishment of certain Offences, by Imprisonment with hard Labour," as relates to the punishment for receiving stolen goods, and for obtaining any property as therein mentioned by false Pretences: and so much of an Act passed in the same year intituled "An Act to amend the General Laws now in being for regulating Turnpike Roads in that Part of *Great Britain* called *England*," as creates any Felony; and the whole of an Act passed in the fourth year of the present reign, intituled "An Act for repealing the Capital Punishments inflicted by several Acts of the Sixth and Twenty-seventh Years of King *George* the Second, and of the Third Fourth and Twenty-second Years of King *George* the Third, and for providing other Punishments in lieu thereof, and in lieu of the Punishment of Frame-breaking under an Act of the Twenty-eighth Year of the same reign," except so far as relates to the Felonies created by the Acts of the twenty-seventh year of King *George* the Second and of the third year of King *George* the Third therein recited; and the whole of an Act passed in the same year of the present reign, intituled "An Act for extending the Benefit of Clergy to several Larcenies therein mentioned;" except so far as relates to any person convicted of stealing or embezzling his Majesty's ammunition, sails, cordage, or naval or military stores, or of being accessory to any such offence; and the whole of an Act passed in the same year, intituled "An Act for allowing the Benefit of Clergy to Persons convicted of certain Felonies under two Acts of the Ninth Year of King *George* the First and of the Twenty-seventh Year of King *George* the Second; for making better Provision for the Punishment of Persons guilty of sending or delivering threatening Letters, and of Assaults with Intent to commit Robbery," except so far as relates to any person who shall send or deliver any letter or writing threatening to kill or murder, or to burn or destroy, as therein mentioned, or shall be accessory to any such offence, or shall forcibly rescue any person being lawfully in custody for any such offence; and an Act passed in the Sixth year of the present reign, intituled "An Act for the Amendment of the Law as to the offence of sending threatening letters;" and so much of an Act passed in the same year of the present reign, intituled "An Act to alter and amend an Act for the better Protection of the Property of Merchants and others, who may hereafter enter into Contracts or Agreements in relation to Goods Wares or Merchandize entrusted to Factors or Agents," as relates to any misdemeanor therein mentioned; and also an Act passed in the seventh year of the present reign, intituled "An Act to amend the Law in respect to the Offence of stealing from Gardens and Hothouses;" and all Acts continuing or perpetuating any of the Acts or parts of Acts herein-before referred to, so far only as relates to the continuing or perpetuating the same respectively, shall be and continue in force until and throughout the last day of *June* in the present year, and shall from and after that day as to that part of the United Kingdom called *England*, and as to offences committed within the jurisdiction of the Admiralty of *England*, be repealed; except so far as any of the said Acts may repeal the whole or any part of any other Acts; and except as to offences and other matters committed or done before or upon the said last day of *June*, which shall be dealt with and punished as if this Act had not been passed.

No. LVI. 7 & 8 G. IV. c. 27.

3 G. 4. c. 33.

3 G. 4. c. 38.

3 G. 4. c. 114.

3 G. 4. c. 126. s. 128.

4 G. 4. c. 46.

4 G. 4. c. 53.

4 G. 4. c. 54.

6 G. 4. c. 19.

6 G. 4. c. 94. s. 7, 8, 9, & 10.

7 G. 4. c. 69.

No. LVI. 7 & 8 G. IV. c. 27.

Not to repeal any Act relating to the Post Office, the Revenue, Public Stores, Bank of England, or South Sea Company.

II. Provided always, and be it enacted, That nothing in this Act contained shall in anywise affect or alter such part of any Act as relates to the Post Office, or to any branch of the public revenue, or to the naval, Military, victualling or other public stores of his Majesty, his heirs or successors, except the Acts of the Thirty-first year of Queen *Elizabeth* and of the twenty-second year of King *Charles* the Second, which are herein-before repealed, or shall affect or alter any Act relating to the Bank of *England* or *South Sea* Company.

[No. LVII.] 7 & 8 George IV. c. 29.—An Act for consolidating and amending the Laws in *England* relative to Larceny and other Offences connected therewith.—[21st *June* 1827.]

No. LVII. 7 & 8 G. IV. c. 29.

WHEREAS various statutes now in force in that part of the United Kingdom called *England*, relative to larceny and other offences of stealing, and to burglary robbery and threats for the purpose of robbery or of extortion, and to embezzlement, false pretences, and the receipt of stolen property, are by an Act of the present session of Parliament repealed from and after the last day of *June*, in the present year, except as to offences committed before or upon that day; and it is expedient that the provisions contained in those various statutes should be amended and consolidated into this Act, to take effect at the same time as the said repealing Act: Be it therefore enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same,

Commencement of Act.

That this Act shall commence on the first day of *July* in the present year.

Distinction between Grand and Petty Larceny abolished.

II. And be it enacted, That the distinction between grand larceny and petty larceny shall be abolished, and every larceny, whatever be the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents in all respects as grand larceny was before the commencement of this Act; and every court, whose power as to the trial of larceny was before the commencement of this Act limited to petty larceny, shall have power to try every case of larceny the punishment of which cannot exceed the punishment herein-after mentioned for simple larceny, and also to try all accessories to such larceny.

Punishments for Simple Larceny.

III. And be it enacted, That every person convicted of simple larceny or of any felony hereby made punishable like simple larceny, shall (except in the cases herein-after otherwise provided for) be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

The Court may, for all Offences within this Act, order hard labour or solitary Confinement.

IV. And, with regard to the place and mode of imprisonment for all indictable offences punishable under this Act, be it enacted, That where any person shall be convicted of any felony or misdemeanor punishable under this Act, for which imprisonment may be awarded, it shall be lawful for the court to sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or house of correction, and also to direct that the offender shall be kept in solitary confinement for the whole or any portion or portions of such imprisonment, or of such imprisonment with hard labour, as to the court in its discretion shall seem meet.

Stealing Public or Private Securities for Money, or Warrants for Goods, shall be Felony, and punishable, according to the Circumstances, like stealing Goods.

V. And be it enacted, That if any person shall steal any tally order or other security whatsoever, entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of this Kingdom, or of *Great Britain* or of *Ireland*, or of any foreign state, or in any fund of any body corporate company or society, or to any deposit, in any Savings Bank, or steal any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever for money or for payment of

money, whether of this Kingdom or of any Foreign State, or shall steal any warrant or order for the delivery or transfer of any goods or valuable thing, every such offender shall be deemed guilty of felony, of the same nature and in the same degree and punishable in the same manner as if he had stolen any chattel of like value with the share interest or deposit, to which the security so stolen may relate, or with the money due on the security so stolen or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing mentioned in the warrant or order; and each of the several documents herein-before enumerated shall throughout this Act be deemed for every purpose to be included under and denoted by the words "valuable security."

Rule of Interpretation.

VI. And be it enacted, That if any person shall rob any other person of any chattel money or valuable security, every such offender, being convicted thereof, shall suffer death as a felon; and if any person shall steal any such property from the person of another, or shall assault any other person with intent to rob him, or shall with menaces or by force demand any such property of any other person with intent to steal the same, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Robbery from the Person.

Stealing from the Person.

Assaults with Intent to commit Robbery, and Demands accompanied with Menaces or Force.

VII. And be it declared and enacted, That if any person shall accuse or threaten to accuse any other person of any infamous crime, as hereinafter defined, with a view or intent to extort or gain from him, and shall by intimidating him by such accusation or threat extort or gain from him, any chattel money or valuable security, every such offender shall be deemed guilty of robbery, and shall be indicted and punished accordingly.

Obtaining Money, &c. by threatening to accuse a Party of an infamous Crime.

VIII. And be it enacted, That if any person shall knowingly send or deliver any letter or writing, demanding of any person, with menaces, and without any reasonable or probable cause, any chattel money or valuable security; or if any person shall accuse or threaten to accuse, or shall knowingly send or deliver any letter or writing accusing or threatening to accuse, any person of any crime punishable by law with death transportation or pillory, or of any assault with intent to commit any rape, or of any attempt or endeavour to commit any rape, or of any infamous crime, as herein-after defined, with a view or intent to extort or gain from such person any chattel money or valuable security; every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Sending Letters containing menacing Demands, or threatening to accuse a Party of an infamous Crime, to extort Money, &c.

IX. And, for defining what shall be an infamous crime within the meaning of this Act, be it enacted, That the abominable crime of buggery, committed either with mankind or with beast, and every assault with intent to commit the said abominable crime, and every solicitation, persuasion, promise, or threat offered or made to any person, whereby to move or induce such person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this Act.

What shall be deemed an infamous Crime.

X. And be it enacted, That if any person shall break and enter any church or chapel, and steal therein any chattel, or having stolen any chattel in any church or chapel, shall break out of the same, every such offender, being convicted thereof, shall suffer death as a felon.

Sacrilege, when capital.

XI. And be it enacted, That every person convicted of burglary shall suffer death as a felon; and it is hereby declared, that if any person shall enter the dwelling-house of another with intent to commit felony, or being in such dwelling-house shall commit any felony, and shall in either case break out of the said dwelling-house, in the night-time, such person shall be deemed guilty of burglary.

Burglary, capital.

No. LVII. 7 & 8 G. IV. c. 29.

House-breaking and stealing in a House when capital.

XII. And be it enacted, That if any person shall break and enter any dwelling-house, and steal therein any chattel money or valuable security to any value whatever; or shall steal any such property to any value whatever in any dwelling-house, any person therein being put in fear; or shall steal in any dwelling-house any chattel money or valuable security to the value in the whole of five pounds or more; every such offender being convicted thereof, shall suffer death as a felon.

What Buildings only are Part of a House for capital Purposes.

XIII. Provided always, and be it enacted, That no building, although within the same curtilage with the dwelling-house and occupied therewith, shall be deemed to be part of such dwelling-house for the purpose of burglary, or for any of the purposes aforesaid, unless there shall be a communication between such building and dwelling-house, either immediate, or by means of a covered and inclosed passage, leading from the one to the other.

Robbery in any Building within the same Curtilage as the House, but not privileged as Part of the House.

XIV. And be it enacted, That if any person shall break and enter any building, and steal therein any chattel money or valuable security, such building being within the curtilage of a dwelling-house, and occupied therewith, but not being part thereof according to the provision hereinbefore mentioned, every such offender, being convicted thereof, either upon an indictment for the same offence, or upon an indictment for burglary housebreaking or stealing to the value of five pounds in a dwelling-house, containing a separate count for such offence, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Robbery in a Shop, Warehouse, &c.

XV. And be it enacted, That if any person shall break and enter any shop warehouse or counting-house, and steal therein any chattel money or valuable security, every such offender, being convicted thereof, shall be liable to any of the punishments which the court may award as herein-before last mentioned.

Stealing certain Goods in Process of Manufacture.

XVI. And be it enacted, That if any person shall steal, to the value of ten shillings, any goods or article of silk, woollen, linen, or cotton, or of any one or more of those materials mixed with each other, or mixed with any other material, whilst laid placed or exposed, during any stage process, or progress of manufacture, in any building field or other place, every such offender, being convicted thereof, shall be liable to any of the punishments which the court may award as herein-before last mentioned.

Stealing Goods from a Vessel in a Port, River, or Canal, &c.

XVII. And be it enacted, That if any person shall steal any goods or merchandize in any vessel barge or boat of any description whatsoever, in any port of entry or discharge, or upon any navigable river or canal, or in any creek belonging to or communicating with any such port river or canal, or shall steal any goods or merchandize from any dock wharf or quay adjacent to any such port, river, canal, or creek, every such offender, being convicted thereof, shall be liable to any of the punishments which the court may award as herein-before last mentioned.

Plundering any Part of the Tackle or Cargo of a shipwrecked Vessel. Proviso.

XVIII. And be it enacted, That if any person shall plunder or steal any part of any ship or vessel which shall be in distress, or wrecked stranded or cast on shore, or any goods merchandize or articles of any kind belonging to such ship or vessel, every such offender, being convicted thereof, shall suffer death as a felon: provided always, that when articles of small value shall be stranded or cast on shore, and shall be stolen without circumstances of cruelty, outrage, or violence, it shall be lawful to prosecute and punish the offender as for simple larceny; and in either case the offender may be indicted and tried either in the county in which the offence shall have been committed, or in any county next adjoining.

Persons in Possession of shipwrecked Goods, not giving a satisfactory Account. See *post*, s. 63.

XIX. And be it enated, That if any goods merchandize or articles of any kind, belonging to any ship or vessel in distress, or wrecked stranded or cast on shore as aforesaid, shall, by virtue of a search warrant, to be granted as herein-after mentioned, be found in the possession of any person, or on the premises of any person with his knowledge, and such person, being carried before a justice of the peace, shall not satisfy the

justice that he came lawfully by the same, then the same shall, by order of the justice, be forthwith delivered over to or for the use of the rightful owner thereof; and the offender, on conviction of such offence before the justice, shall forfeit and pay, over and above the value of the goods merchandize or articles, such sum of money, not exceeding twenty pounds, as to the justice shall seem meet.

See *post*, s. 66 & 67.

If any Person offers shipwrecked Goods for Sale, the Goods may be seized, &c.

XX. And be it enacted, That if any person shall offer or expose for sale any goods merchandize or articles whatsoever, which shall have been unlawfully taken, or reasonably suspected so to have been, from any ship or vessel in distress, or wrecked stranded or cast on shore as aforesaid, in every such case any person to whom the same shall be offered for sale, or any officer of the customs or excise, or peace officer, may lawfully seize the same, and shall with all convenient speed carry the same, or give notice of such seizure, to some justice of the peace; and if the person who shall have offered or exposed the same for sale, being duly summoned by such justice, shall not appear and satisfy the justice that he came lawfully by such goods merchandize or articles, then the same shall, by order of the justice, be forthwith delivered over to or for the use of the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the justice) to the person who seized the same; and the offender, on conviction of such offence by the justice, shall forfeit and pay, over and above the value of the goods merchandize or articles, such sum of money, not exceeding twenty pounds, as to the justice shall seem meet.

See *post*, s. 66 & 67.

The stealing &c., of Records and other Proceedings of Courts of Justice.

XXI. And be it enacted, That if any person shall steal, or shall for any fraudulent purpose take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously obliterate injure or destroy any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or any original document whatsoever of or belonging to any Court of Record, or relating to any matter civil or criminal, begun depending or terminated in any such court, or any bill, answer, interrogatory, deposition, affidavit, order, or decree, or any original document whatsoever of or belonging to any court of equity or relating to any cause or matter begun depending or terminated in any such court, every such offender shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to suffer such other punishment by fine or imprisonment, or by both, as the court shall award; and it shall not in any indictment for such offence be necessary to allege that the article, in respect of which the offence is committed, is the property of any person, or that the same is of any value.

The stealing, &c., of Wills.

XXII. And be it enacted, That if any person shall, either during the life of the testator or testatrix, or after his or her death, steal or for any fraudulent purpose destroy or conceal, any will codicil or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, every such offender shall be guilty of a misdemeanor, and, being convicted thereof, shall be liable to any of the punishments which the court may award, as herein-before last mentioned; and it shall not in any indictment for such offence be necessary to allege that such will codicil or other instrument is the property of any person, or that the same is of any value.

The stealing of Writings relating to Real Estate.

XXIII. And be it enacted, That if any person shall steal any paper or parchment, written or printed, or partly written and partly printed, being evidence of the title or of any part of the title to any real estate, every such offender shall be deemed guilty of a misdemeanor, and, being convicted thereof, shall be liable to any of the punishments which the court may award, as herein-before last mentioned; and in any indictment for such offence, it shall be sufficient to allege the thing stolen to be evidence of the title, or of part of the title, of the person or of some one of the persons having a present interest, whether legal or equitable, in the real estate to which the same relates, and to mention such real estate, or some part thereof; and it shall not be necessary to allege the thing stolen to be of any value.

No. LVII. 7 & 8 G. IV. c. 29.

These Provisions as to Wills and Writings shall not lessen any Remedy which the Party aggrieved now has.

XXIV. Provided always, and be it enacted, That nothing in this Act contained relating to either of the misdemeanors aforesaid, nor any proceeding conviction or judgment to be had or taken thereupon, shall prevent lessen or impeach any remedy at law or in equity which any party aggrieved by any such offence might or would have had if this Act had not been passed; but nevertheless the conviction of any such offender shall not be received in evidence in any action at law or suit in equity against him; and no person shall be liable to be convicted of either of the misdemeanors aforesaid, by any evidence whatever, in respect of any Act done by him, if he shall at any time previously to his being indicted for such offence have disclosed such Act, on oath, in consequence of any compulsory process of any court of law or equity in any action suit or proceeding which shall have been *bonâ fide* instituted by any party aggrieved, or if he shall have disclosed the same in any examination or deposition before any commissioners of bankrupt.

Stealing Horses, Cows, and Sheep.

XXV. And be it enacted, That if any person shall steal any horse, mare, gelding, colt, or filly, or any bull, cow, ox, heifer, or calf, or any ram, ewe, sheep, or lamb, or shall wilfully kill any of such cattle, with intent to steal the carcase or skin or any part of the cattle so killed, every such offender shall be guilty of felony, and, being convicted thereof, shall suffer death as a felon.

Stealing, &c. Deer in any inclosed Ground, Felony.

XXVI. And be it enacted, That if any person shall unlawfully and wilfully course, hunt, snare, or carry away, or kill or wound, or attempt to kill or wound, any deer kept or being in the inclosed part of any forest chase or purlieu, or in any inclosed land wherein deer shall be usually kept, every such offender shall be guilty of felony, and, being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny; and if any person shall unlawfully and wilfully course, hunt, snare, or carry away, or kill or wound, or attempt to kill or wound, any deer kept or being in the uninclosed part of any forest chase or purlieu, he shall for every such offence, on conviction thereof before a justice of the peace, forfeit and pay such sum, not exceeding fifty pounds, as to the justice shall seem meet; and if any person, who shall have been previously convicted of any offence relating to deer for which a pecuniary penalty is by this Act imposed, shall offend a second time, by committing any of the offences herein-before last enumerated, such second offence, whether it be of the same description as the first offence or not, shall be deemed felony, and such offender, being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny.

The like in certain uninclosed Ground punishable summarily. See *post*, s. 66 & 67.

Deer-stealing in uninclosed Ground after any other Offence as to Deer, Felony.

Suspected Persons, found in Possession of Venison, &c., and not satisfactorily accounting for it. See *post*, s. 63. See *post*, s. 66. & 67.

In case they cannot be convicted, how the Justice may proceed.

XXVII. And be it enacted, That if any deer, or the head skin or other part thereof, or any snare or engine for the taking of deer, shall by virtue of a search warrant, to be granted as herein-after mentioned, be found in possession of any person or on the premises of any person with his knowledge, and such person, being carried before a justice of the peace, shall not satisfy the justice that he came lawfully by such deer, or the head skin or other part thereof, or had a lawful occasion for such snare or engine and did not keep the same for any other unlawful purpose, he shall, on conviction by the justice, forfeit and pay any sum not exceeding twenty pounds; and if any such person shall not under the provisions aforesaid be liable to conviction, then, for the discovery of the party who actually killed or stole such deer, it shall be lawful for the justice, at his discretion, as the evidence given and the circumstance of the case shall require, to summon before him every person through whose hands such deer, or the head skin or other part thereof, shall appear to have passed; and if the person from whom the same shall have been first received, or who shall have had possession thereof, shall not satisfy the justice that he came lawfully by the same, he shall, on conviction by the justice, be liable to the payment of such sum of money as is herein-before last mentioned.

Setting Engines for taking Deer, or pulling down Park Fences.

XXVIII. And be it enacted, That if any person shall unlawfully and wilfully set or use any snare or engine whatsoever, for the purpose of taking or killing deer, in any part of any forest chase or purlieu, whether such part be inclosed or not, or in any fence or bank dividing the same from any land adjoining, or in any inclosed land where deer shall be usu-

ally kept, or shall unlawfully and wilfully destroy any part of the fence of any land where any deer shall be then kept, every such offender, being convicted thereof before a justice of the peace, shall forfeit and pay such sum of money, not exceeding twenty pounds, as to the justice shall seem meet.

See *post*, s. 66 & 67.

XXIX. And be it enacted, That if any person shall enter into any forest chase or purlieu, whether inclosed or not, or into any inclosed land where deer shall be usually kept, with intent unlawfully to hunt, course, wound, kill, snare or carry away any deer, it shall be lawful for every person entrusted with the care of such deer, and for any of his assistants, whether in his presence or not, to demand from every such offender any gun, fire-arms, snare or engine in his possession, and any dog there brought for hunting coursing or killing deer, and in case such offender shall not immediately deliver up the same, to seize and take the same from him in any of those respective places, or, upon pursuit made, in any other place to which he may have escaped therefrom, for the use of the owner of the deer; and if any such offender shall unlawfully beat or wound any person entrusted with the care of the deer, or any of his assistants, in the execution of any of the powers given by this Act, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny.

Deer-keepers, &c., may seize the Guns, &c. of Offenders who, on Demand, do not deliver up the same.

Resistance to Keepers, &c. in the Execution of their Duty.

XXX. And be it enacted, That if any person shall unlawfully and wilfully in the night-time take or kill any hare or coney in any warren or ground lawfully used for the breeding or keeping of hares or conies, whether the same be inclosed or not, every such offender shall be guilty of a misdemeanor, and, being convicted thereof, shall be punished accordingly; and if any person shall unlawfully and wilfully in the day-time take or kill any hare or coney in any such warren or ground, or shall at any time set or use therein any snare or engine for the taking of hares or conies, every such offender, being convicted thereof before a justice of the peace, shall forfeit and pay such sum of money, not exceeding five pounds, as to the justice shall seem meet: Provided always, that nothing herein contained shall affect any person taking or killing in the day-time any conies on any sea bank or river bank in the county of *Lincoln*, so far as the tide shall extend, or within one furlong of such bank.

Killing, &c. Hares or Conies in a Warren in the Night-time.

The like in the Day-time.

See *post*, s. 66 & 67.

Proviso.

XXXI. And be it enacted, That if any person shall steal any dog, or shall steal any beast or bird ordinarily kept in a state of confinement, not being the subject of larceny at common law, every such offender, being convicted thereof before a justice of the peace, shall for the first offence forfeit and pay, over and above the value of the dog beast or bird, such sum of money not exceeding twenty pounds, as to the justice shall seem meet; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in like manner, every such offender shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding twelve calendar months, as the convicting justice shall think fit; and if such subsequent conviction shall take place before two justices, they may further order the offender, if a male, to be once or twice publicly or privately whipped, after the expiration of four days from the time of such conviction.

Stealing Dogs, or stealing Beasts or Birds ordinarily kept in Confinement, and not the Subjects of Larceny.

See *post*, s. 66 & 67.

XXXII. And be it enacted, That if any dog or any such beast, or the skin thereof, or any such bird, or any of the plumage thereof, shall be found in the possession or on the premises of any person by virtue of a search warrant, to be granted as herein-after mentioned, the justice by whom such warrant was granted may restore the same respectively to the owner thereof; and the person in whose possession or on whose premises the same shall be so found (such person knowing that the dog beast or bird has been stolen, or that the skin is the skin of a stolen dog or beast, or that the plumage is the plumage of a stolen bird) shall, on conviction before a justice of the peace, be liable for the first offence to such forfeiture, and for every subsequent offence to such punishment, as persons convicted of stealing any dog beast or bird are herein-before made liable to.

Persons found in Possession of stolen Dogs, &c., liable to Penalties.

See *post*, s. 63.

No. LVII. 7 & 8 G. IV. c. 29.

Killing Pigeons. See *post*, s. 66 & 67.

XXXIII. And be it enacted, That if any person shall unlawfully and wilfully kill wound or take any house dove or pigeon, under such circumstances as shall not amount to larceny at common law, every such offender, being convicted thereof before a justice of the peace, shall forfeit and pay, over and above the value of the bird, any sum not exceeding two pounds.

Taking Fish in any Water situate in Land belonging to a Dwelling House; in any private Fishery elsewhere. See *post*, s. 66 & 67.

XXXIV. And be it enacted, That if any person shall unlawfully and wilfully take or destroy any fish in any water which shall run through or be in any land adjoining or belonging to the dwelling-house of any person being the owner of such water, or having a right of fishery therein, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be punished accordingly; and if any person shall unlawfully and wilfully take or destroy, or attempt to take or destroy, any fish in any water not being such as aforesaid, but which shall be private property, or in which there shall be any private right of fishery, every such offender being convicted thereof before a justice of the peace, shall forfeit and pay over and above the value of the fish taken or destroyed (if any) such sum of money, not exceeding five pounds, as to the justice shall seem meet: Provided always, that nothing herein-before contained shall extend to any person angling in the day-time; but if any person shall by angling in the day-time unlawfully and wilfully take or destroy, or attempt to take or destroy, any fish in any such water as first mentioned, he shall, on conviction before a justice of the peace, forfeit and pay any sum not exceeding five pounds; and if in any such water as last mentioned, he shall, on the like conviction, forfeit and pay any sum not exceeding two pounds, as to the justice shall seem meet; and if the boundary of any parish township or vill shall happen to be in or by the side of any such water as is herein-before mentioned, it shall be sufficient to prove that the offence was committed either in the parish township or vill named in the indictment or information, or in any parish township or vill adjoining thereto.

Provision respecting Anglers.

See *post*, s. 66 & 67.

The Tackle of Fishers may be seized.

XXXV. And be enacted, That if any person shall at any time be found fishing against the provisions of this Act, it shall be lawful for the owner of the ground water or fishery where such offender shall be so found, his servants, or any person authorized by him, to demand from such offender any rods, lines, hooks, nets, or other implements for taking or destroying fish, which shall then be in his possession, and in case such offender shall not immediately deliver up the same, to seize and take the same from him for the use of such owner: Provided always, that any person angling in the day-time against the provisions of this Act, from whom any implements used by anglers shall be taken, or by whom the same shall be delivered up as aforesaid, shall by the taking or delivering thereof be exempted from the payment of any damages or penalty for such angling.

Angler, on Seizure of his Tackle, exempt from Penalty.

Stealing Oysters or Oyster Brood from Oyster Beds.

Dredging for Oysters within the Limits of any Oyster Fishery.

XXXVI. And be it enacted, That if any person shall steal any oysters or oyster brood from any oyster bed laying or fishery, being the property of any other person, and sufficiently marked out or known as such, every such offender shall be deemed guilty of larceny, and being convicted thereof, shall be punished accordingly; and if any person shall unlawfully and wilfully use any dredge, or any net instrument or engine whatsoever, within the limits of any such oyster fishery, for the purpose of taking oysters or oyster brood, although none shall be actually taken, or shall, with any net instrument or engine, drag upon the ground or soil of any such fishery, every such person shall be deemed guilty of a misdemeanor, and being convicted thereof, shall be punished by fine or imprisonment, or both, as the court shall award; such fine not to exceed twenty pounds, and such imprisonment not to exceed three calendar months; and it shall be sufficient in any indictment or information to describe, either by name or otherwise, the bed laying or fishery in which any of the said offences shall have been committed, without stating the same to be in any particular parish township or vill: Provided always, that nothing herein contained shall prevent any person from catching or fishing for any floating fish within the limits of any oyster fishery with any net instrument or engine adapted for taking floating fish only.

Proviso.

XXXVII. And be it enacted, That if any person shall steal, or sever with intent to steal, the ore of any metal, or any lapis calaminaris manganese or mundick, or any wad black cawke or black lead, or any coal or cannel coal, from any mine bed or vein thereof respectively, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny.

Stealing from certain Mines.

XXXVIII. And be it enacted, That if any person shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree sapling or shrub, or any underwood, respectively growing in any park, pleasure ground, garden, orchard, or avenue, or in any ground adjoining or belonging to any dwelling-house, every such offender (in case the value of the article or articles stolen, or the amount of the injury done, shall exceed the sum of one pound) shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny; and if any person shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree, sapling or shrub, or any underwood respectively, growing elsewhere than in any of the situations herein-before mentioned, every such offender (in case the value of the article or articles stolen, or the amount of the injury done, shall exceed the sum of five pounds) shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny.

Stealing Trees, Shrubs, &c. growing in certain Situations, shall be Felony, if the Value exceeds 1*l.*

Stealing Trees, Shrubs, &c. growing elsewhere, shall be Felony, if the Value exceeds 5*l.*

XXXIX. And be it enacted, That if any person shall steal, or shall cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree sapling or shrub, or any underwood, wheresoever the same may be respectively growing, the stealing of such article or articles, or the injury done, being to the amount of a shilling at the least, every such offender being convicted before a justice of the peace, shall for the first offence forfeit and pay, over and above the value of the article or articles stolen, or the amount of the injury done, such sum of money, not exceeding five pounds, as to the justice shall seem meet; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in like manner, every such offender shall for such second offence be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding twelve calendar months, as the convicting justice shall think fit; and if such second conviction shall take place before two justices, they may further order the offender, if a male, to be once or twice publicly or privately whipped, after the expiration of four days from the time of such conviction; and if any person so twice convicted shall afterwards commit any of the said offences, such offender shall be deemed guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny.

Stealing Trees, Shrubs, &c. wheresoever growing, and of any Value above 1*s.*, punishable on summary Conviction for First and Second Offence; Third Offence, Felony. See *post*, s. 66 & 67.

XL. And be it enacted, That if any person shall steal, or shall cut break or throw down, with intent to steal, any part of any live or dead fence, or any wooden post pale or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, every such offender, being convicted before a justice of the peace, shall for the first offence forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money, not exceeding five pounds, as to the justice shall seem meet; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in like manner, every such offender shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding twelve calendar months, as the convicting justice shall think fit; and if such subsequent conviction shall take place before two justices, they may further order the offender, if a male, to be once or twice publicly or privately whipped, after the expiration of four days from the time of such conviction.

Stealing, &c. any live or dead Fence, Wooden Fence, Stile, or Gate, See *post*, s. 66 & 67.

No. LVII. 7 & 8 G. IV. c. 29.

Suspected Persons in possession of Wood, &c., not satisfactorily accounting for it.

XLI. And be it enacted, That if the whole or any part of any tree sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, rail, stile, or gate, or any part thereof, being of the value of two shillings at the least, shall by virtue of a search warrant, to be granted as herein-after mentioned, be found in the possession of any person, or on the premises of any person, with his knowledge, and such person, being carried before a justice of the peace, shall not satisfy the justice that he came lawfully by the same, he shall on conviction by the justice forfeit and pay, over and above the value of the article or articles so found, any sum not exceeding two pounds.

See *post*, s. 63. See *post*, s. 66 & 67.

Stealing, &c. any Fruit or Vegetable Production in a Garden, &c. punishable on summary Conviction for First Offence; Second Offence, Felony.

XLII. And be it enacted, That if any person shall steal, or shall destroy or damage with intent to steal, any plant, root, fruit, or vegetable production, growing in any garden, orchard, nursery-ground, hot-house, greenhouse, or conservatory, every such offender, being convicted thereof before a justice of the peace, shall, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding six calendar months, or else shall forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money not exceeding twenty pounds, as to the justice shall seem meet; and if any person so convicted shall afterwards commit any of the said offences, such offender shall be deemed guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny.

See *post*, s. 66, & 67.

Stealing, &c. Vegetable Productions not growing in Gardens, &c.

See *post*, s. 66 & 67.

XLIII. And be it enacted, That if any person shall steal, or shall destroy or damage with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden orchard or nursery ground, every such offender, being convicted before a justice of the peace, shall, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one calendar month, or else shall forfeit and pay, over and above the value of the article or articles so stolen, or the amount of the injury done, such sum of money, not exceeding twenty shillings, as to the justice shall seem meet, and in default of payment thereof, together with the costs (if ordered), shall be committed as aforesaid, for any term not exceeding one calendar month, unless payment be sooner made; and if any person so convicted shall afterwards be guilty of any of the said offences and shall be convicted thereof in like manner every such offender shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding six calendar months, as the convicting justice shall think fit; and if such subsequent conviction shall take place before two justices, they may further order the offender, if a male, to be once or twice publicly or privately whipped, after the expiration of four days from the time of such conviction.

Stealing Glass, Wood-work, or Fixtures of any Kind from Buildings, and Metal Fixtures from Grounds.

XLIV. And be it enacted, That if any person shall steal, or rip cut or break with intent to steal, any glass or wood-work belonging to any building whasoever, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material, respectively fixed in or to any building whatsoever, or any thing made of metal fixed in any land being private property, or for a fence to any dwelling-house garden or area, or in any square street or other place dedicated to public use or ornament, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny; and in case of any such thing fixed in any square street or other like place, it shall not be necessary to allege the same to be the property of any person.

Tenants and Lodgers stealing any Property from Houses or Apartments let to them.

XLV. And, for the punishment of depredations committed by tenants and lodgers, be it enacted, That if any person shall steal any chattel or fixture let to be used by him or her in or with any house or lodging, whe-

ther the contract shall have been entered into by him or her, or by her husband, or by any person on behalf of him or her, or her husband, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny: and in every such case of stealing any chattel, it shall be lawful to prefer an indictment in the common form as for larceny, and in every such case of stealing any fixture to prefer an indictment in the same form as if the offender were not a tenant or lodger, and in either case to lay the property in the owner or person letting to hire.

Clerks and Servants stealing Property of their Masters.

XLVI. And, for the punishment of depredations committed by clerks and servants in cases not punishable capitally, be it enacted, That if any clerk or servant shall steal any chattel money or valuable security, belonging to or in the possession or power of his master, every such offender, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years nor less than seven years, or to be imprisoned for any term not exceeding three years, and if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Clerks or Servants receiving any Money, &c., on their Master's Account, and embezzling it, shall be deemed to have feloniously stolen it.

XLVII. And, for the punishment of embezzlements committed by clerks and servants, be it declared and enacted, That if any clerk or servant, or any person employed for the purpose or in the capacity of a clerk or servant, shall by virtue of such employment, receive or take into his possession any chattel money or valuable security, for or in the name or on the account of his master, and shall fraudulently embezzle the same, or any part thereof, every such offender shall be deemed to have feloniously stolen the same from his master, although such chattel money or security was not received into the possession of such master otherwise than by the actual possession of his clerk servant or other person so employed; and every such offender, being convicted thereof, shall be liable, at the discretion of the court, to any of the punishments which the court may award as hereinbefore last mentioned.

Distinct Acts of Embezzlement may be charged in the same Indictment.

XLVIII. And, for preventing the difficulties that have been experienced in the prosecution of the last-mentioned offenders, be it enacted, That it shall be lawful to charge in the indictment and proceed against the offender for any number of distinct acts of embezzlement not exceeding three, which may have been committed by him against the same master, within the space of six calendar months from the first to the last of such acts; and in every such indictment, except where the offence shall relate to any chattel, it shall be sufficient to allege the embezzlement to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained, if the offender shall be proved to have embezzled any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved; or if he shall be proved to have embezzled any piece of coin or valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, and such part shall have been returned accordingly.

As to Allegation and Proof of the Property embezzled.

Agents embezzling Money entrusted to them to be applied to any special Purpose;

XLIX. And, for the punishment of embezzlements committed by agents entrusted with property, be it enacted, That if any money, or security for the payment of money, shall be entrusted to any banker, merchant, broker, attorney, or other agent, with any direction in writing to apply such money, or any part thereof, or the proceeds or any part of the proceeds of such security, for any purpose specified in such direction, and he shall, in violation of good faith, and contrary to the purpose so specified, in anywise convert to his own use or benefit such money security or proceeds, or any part thereof respectively, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years nor less than seven years, or to suffer such other punishment by fine or imprisonment, or by both, as the court shall award; and if

or embezzling any special

any Goods or valuable Security entrusted to them for safe Custody, or for Purpose, guilty of a Misdemeanor.

any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, whether of this kingdom, or of *Great Britain* or *Ireland*, or of any foreign state, or in any fund of any body corporate company or society, shall be entrusted to any banker, merchant, broker, attorney or other agent, for safe custody, or for any special purpose, without any authority to sell, negotiate, transfer, or pledge, and he shall, in violation of good faith and contrary to the object or purpose for which such chattel security or power of attorney shall have been entrusted to him, sell, negotiate, transfer, pledge, or in any manner convert to his own use or benefit such chattel or security, or the proceeds of the same, or any part thereof, or the share or interest in the stock or fund to which such power of attorney shall relate, or any part thereof, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to any of the punishments which the court may award, as herein-before last mentioned.

Not to affect Trustees or Mortgagees;

L. Provided always, and be it enacted, That nothing herein-before contained relating to agents shall affect any trustee in or under any instrument whatever, or any mortgagee of any property, real or personal, in respect of any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage; nor shall

nor Bankers, &c., receiving Money due on Securities,

restrain any banker, merchant, broker, attorney, or other agent, from receiving any money which shall be or become actually due and payable upon or by virtue of any valuable security, according to the tenor and effect thereof, in such manner as he might have done if this Act had not been passed; nor from selling transferring or otherwise disposing of any

or disposing of Securities on which they have a Lien.

securities or effects in his possession, upon which he shall have any lien claim or demand intitling him by law so to do, unless such sale transfer or other disposal shall extend to a greater number or part of such securities or effects than shall be requisite for satisfying such lien claim or demand.

Factors pledging for their own Use any Goods or Documents relating to Goods entrusted to them for the Purpose of Sale, guilty of a Misdemeanor.

LI. And be it enacted, That if any factor or agent entrusted, for the purpose of sale, with any goods or merchandize, or entrusted with any bill of lading, warehouse keeper's or wharfinger's certificate, or warrant or order for delivery of goods or merchandize, shall, for his own benefit and in violation of good faith, deposit or pledge any such goods or merchandize, or any of the said documents, as a security for any money or negotiable instrument borrowed or received by such factor or agent, at or before the time of making such deposit or pledge, or intended to be thereafter borrowed or received, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years nor less than seven years, or to suffer such other punishment by fine or imprisonment, or by both, as the court shall award; but

Not to extend to Cases where the Pledge does not exceed the Amount of their Lien.

no such factor or agent shall be liable to any prosecution for depositing or pledging any such goods or merchandize, or any of the said documents, in case the same shall not be made a security for or subject to the payment of any greater sum of money than the amount which, at the time of such deposit or pledge, was justly due and owing to such factor or agent from his principal, together with the amount of any bill or bills of exchange drawn by or on account of such principal, and accepted by such factor or agent.

These Provisions as to Agents shall not lessen any Remedy which the Party aggrieved now has.

LII. Provided always, and be it enacted, That nothing in this Act contained, nor any proceeding conviction or judgment to be had or taken thereupon, against any banker, merchant, broker, factor, attorney, or other agent as aforesaid, shall prevent lessen or impeach any remedy at law or in equity which any party aggrieved by any such offence might or would have had if this Act had not been passed; but nevertheless the conviction of any such offender shall not be received in evidence in any action at law or suit in equity against him; and no banker, merchant, broker, factor, attorney, or other agent as aforesaid, shall be liable to be convicted by any evidence whatever as an offender against this Act, in respect of any act done by him, if he shall at any time previously to his being indicted for such offence have disclosed such act, on oath, in consequence

of any compulsory process of any court of law or equity in any action suit or proceeding which shall have been *bonâ fide* instituted by any party aggrieved, or if he shall have disclosed the same in any examination or deposition before any commissioners of bankrupt.

Obtaining Money, &c. by false Pretences, a Misdemeanor.

LIII. And whereas a failure of justice frequently arises from the subtle distinction between larceny and fraud; for remedy thereof be it enacted, That if any person shall by any false pretence obtain from any other person any chattel money or valuable security, with intent to cheat or defraud any person of the same, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to suffer such other punishment, by fine or imprisonment, or by both, as the court shall award: Provided always, that if upon the trial of any person indicted for such misdemeanor it shall be proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted of such misdemeanor; and no such indictment shall be removable by *certiorari;* and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts.

No Acquittal on the ground that the Case proved amounts to Larceny.

Where the original Offence is Felony, the Receivers of Stolen Property may be tried either as Accessories after the Fact, or for a substantive Felony.

LIV. And, with regard to receivers of stolen property, be it enacted, That if any person shall receive any chattel, money, valuable security, or other property whatsoever, the stealing or taking whereof shall amount to a felony, either at common law, or by virtue of this Act, such person knowing the same to have been feloniously stolen or taken, every such receiver shall be guilty of felony, and may be indicted and convicted either as an accessory after the fact, or for a substantive felony, and in the latter case, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and every such receiver, howsoever convicted, shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years nor less than seven years, or to be imprisoned for any term not exceeding three years, and if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment: Provided always, that no person, howsoever tried for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence.

Where the original Offence is a Misdemeanor, Receivers may be prosecuted for a Misdemeanor.

LV. And be it enacted, That if any person shall receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, obtaining, or converting whereof is made an indictable misdemeanor by this Act, such person knowing the same to have been unlawfully stolen taken, obtained, or converted, every such receiver shall be guilty of a misdemeanor, and may be indicted and convicted thereof, whether the person guilty of the principal misdemeanor shall or shall not have been previously convicted thereof, or shall or shall not be amenable to justice; and every such receiver shall, on conviction, be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit) in addition to such imprisonment.

All Receivers may be tried where the Principal is triable, or where the Property is found in their Possession, as well as where the receiving takes place.

LVI. And be it enacted, That if any person shall receive any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, or converted, every such person, whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, may be dealt with, indicted, tried, and punished in any county or place in which he shall have or shall have had any such property in his possession or in any county or place in which the party guilty of the principal felony or misdemeanor may by law be tried in the same manner as such receiver may be dealt with, indicted, tried, and punished in the county or place where he actually received such property.

The Owner of stolen Property prosecuting Thief or Receiver to Conviction shall have Restitution of his Property.

LVII. And, to encourage the prosecution of offenders, be it enacted, That if any person, guilty of any such felony or misdemeanor as aforesaid, in stealing, taking, obtaining, or converting, or in knowingly receiv-

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ing any chattel, money, valuable security, or other property whatsoever, shall be indicted for any such offence, by or on the behalf of the owner of the property, or his executor or administrator, and convicted thereof, in such case the property shall be restored to the owner or his representative; and the court, before whom any such person shall be so convicted, shall have power to award from time to time writs of restitution for the said property, or to order the restitution thereof in a summary manner: Provided always, that if it shall appear before any award or order made that any valuable security shall have been *bonâ fide* paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument shall have been *bonâ fide* taken or received by transfer or delivery, by some person or body corporate, for a just and valuable consideration, without any notice, or without any reasonable cause to suspect that the same had by any felony or misdemeanor been stolen, taken, obtained, or converted as aforesaid, in such case the court shall not award or order the restitution of such security.

Exception.

Taking a Reward for helping to the Recovery of stolen Property without bringing the Offender to Trial.

LVIII. And be it enacted, That every person who shall corruptly take any money or reward, directly or indirectly, under pretence or upon account of helping any person to any chattel, money, valuable security, or other property whatsoever, which shall by any felony or misdemeanor have been stolen, taken, obtained, or converted as aforesaid, shall (unless he cause the offender to be apprehended and brought to trial for the same) be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit) in addition to such imprisonment

Advertising a Reward for the Return of stolen Property, &c.

LIX. And be it enacted, That if any person shall publicly advertise a reward for the return of any property whatsoever which shall have been stolen or lost, and shall in such advertisement use any words purporting that no questions will be asked, or shall make use of any words in any public advertisement purporting that a reward will be given or paid for any property which shall have been stolen or lost, without seizing or making any inquiry after the person producing such property, or shall promise or offer in any such public advertisement to return to any pawnbroker or other person who may have bought or advanced money by way of loan upon any property stolen or lost, the money so paid or advanced, or any other sum of money, or reward for the return of such property, or if any person shall print or publish any such advertisement, in any of the above cases every such person shall forfeit the sum of fifty pounds for every such offence, to any person who will sue for the same by action of debt, to be recovered with full costs of suits.

Receivers of Property, where the original Offence is punishable on summary Conviction.

LX. And be it enacted, That where the stealing or taking of any property whatsoever is by this Act punishable on summary conviction, either for every offence, or for the first and second offence only, or for the first offence only, any person who shall receive any such property, knowing the same to be unlawfully come by, shall on conviction thereof before a justice of the peace, be liable, for every first second or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first second or subsequent offence of stealing or taking such property is by this Act made liable.

Principals in the Second Degree and Accessories.

LXI. And be it enacted, That in the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable with death or otherwise, in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act (except only a receiver of stolen property) shall on conviction be liable to be imprisoned for any term not exceeding two years; and every person, who shall aid, abet, counsel, or procure the commission of any misdemeanor punishable under this Act, shall be liable to be indicted and punished as a principal offender.

Abettors in Misdemeanors.

Abettors in Offences punishable on summary Conviction.

LXII. And be it enacted, That if any person shall aid, abet, counsel, or

procure the commission of any offence which is by this Act punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, every such person shall, on conviction before a justice of the peace, be liable, for every first second or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first second or subsequent offence, as a principal offender, is by this Act made liable.

A Person in the Act of committing any Offence may be apprehended without a Warrant.

LXIII. And, for the more effectual apprehension and discovery of all offenders punishable under this Act, be it enacted, That any person found committing any offence punishable, either upon indictment or upon summary conviction, by virtue of this Act, except only the offence of angling in the day-time, may be immediately apprehended without a warrant by any peace officer, or by the owner of the property on or with respect to which the offence shall be committed, or by his servant or any person authorized by him, and forthwith taken before some neighbouring justice of the peace, to be dealt with according to law; and if any credible witness shall prove, upon oath before a justice of the peace, a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever, on or with respect to which any such offence shall have been committed, the justice may grant a warrant to search for such property, as in the case of stolen goods; and any person, to whom any property shall be offered to be sold pawned or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorized, and, if in his power, is required to apprehend and forthwith to carry before a justice of the peace the party offering the same, together with such property, to be dealt with according to law.

A Justice, upon good Grounds of Suspicion proved on Oath, may grant a Search Warrant.

Any Person, to whom stolen Property is offered, may seize the Party offering it.

Limitations as to summary Proceedings.

LXIV. And be it enacted, That the prosecution for every offence punishable on summary conviction under this Act shall be commenced within three calendar months after the commission of the offence, and not otherwise; and the evidence of the party aggrieved shall be admitted in proof of the offence, and also the evidence of any inhabitant of the county riding or division in which the offence shall have been committed, notwithstanding any penalty or forfeiture incurred by the offence may be payable to the general rate of such county riding or division.

Competency of Witnesses.

Mode of compelling the Appearance of Persons punishable on summary Conviction.

LXV. And, for the more effectual prosecution of all offences punishable on summary conviction under this Act, be it enacted, That where any person shall be charged, on the oath of a credible witness, before any justice of the peace with any such offence, the justice may summon the person charged to appear at a time and place to be named in such summons, and, if he shall not appear accordingly, then (upon proof of the due service of the summons upon such person, by delivering the same to him personally, or by leaving the same at his usual place of abode) the justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person, and bringing him before himself or some other justice of the peace, or the justice before whom the charge shall be made may (if he shall so think fit), without any previous summons (unless where otherwise specially directed), issue such warrant, and the justice before whom the person charged shall appear or be brought shall proceed to hear and determine the case.

Application of Forfeitures and Penalties on summary Convictions.

LXVI. And, with regard to the application of all forfeitures and penalties upon summary convictions under this Act, be it enacted, That every sum of money, which shall be forfeited for the value of any property stolen or taken, or for the amount of any injury done, (such value or amount to be assessed in each case by the convicting justice,) shall be paid to the party aggrieved, if known, except where such party shall have been examined in proof of the offence, and in that case, or where the party aggrieved is unknown, such sum shall be applied in the same manner as a penalty; and every sum which shall be imposed as a penalty by any justice of the peace, whether in addition to such value or amount, or otherwise, shall be paid to some one of the overseers of the poor, or to some other officer (as the justice may direct) of the parish township or

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place in which the offence shall have been committed, to be by such overseer or officer paid over to the use of the general rate of the county riding or division in which such parish township or place shall be situate, whether the same shall or shall not contribute to such general rate: Provided always that where several persons shall join in the commission of the same offence, and shall, upon conviction thereof, each be adjudged to forfeit a sum equivalent to the value of the property or to the amount of the injury, in every such case no further sum shall be paid to the party aggrieved than that which shall be forfeited by one of such offenders only; and the corresponding sum or sums forfeited by the other offender or offenders shall be applied in the same manner as any penalty imposed by a justice of the peace is herein-before directed to be applied.

Proviso.

If a Person summarily convicted shall not pay, &c., the Justice may commit him.

LXVII. And be it enacted, That in every case of a summary conviction under this Act, where the sum which shall be forfeited for the value of the property stolen or taken, or for the amount of the injury done, or which shall be imposed as a penalty by the justice, shall not be paid, either immediately after the conviction, or within such period as the justice shall, at the time of the conviction, appoint, it shall be lawful for the convicting justice (unless where otherwise specially directed) to commit the offender to the common goal or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the justice, for any term not exceeding two calendar months, where the amount of the sum forfeited, or of the penalty imposed, or of both, (as the case may be,) together with the costs, shall not exceed five pounds; and for any term not exceeding four calendar months, where the amount with costs shall not exceed ten pounds; and for any term not exceeding six calendar months, in any other case; the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

Scale of Imprisonment.

Justice may discharge the Offender in certain Cases.

LXVIII. Provided always, and be it enacted, That where any person shall be summarily convicted before a justice of the peace of any offence against this Act, and it shall be a first conviction, it shall be lawful for the justice, if he shall so think fit, to discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved for damages and costs, or either of them, as shall be ascertained by the justice.

Pardon for Non-payment of Money.

LXIX. And be it enacted, That it shall be lawful for the King's Majesty to extend his royal mercy to any person imprisoned by virtue of this Act, although he shall be imprisoned for non-payment of money to some party other than the Crown.

A summary Conviction shall be a Bar to any other Proceeding for the same Cause.

LXX. And be it enacted, That in case any person convicted of any offence punishable upon summary conviction by virtue of this Act, shall have paid the sum adjudged to be paid, together with costs, under such conviction, or shall have received a remission thereof from the Crown, or shall have suffered the imprisonment awarded for non-payment thereof, or the imprisonment adjudged in the first instance, or shall have been discharged from his conviction in the manner aforesaid, in every such case he shall be released from all further or other proceedings for the same cause.

Form of Conviction.

LXXI. And be it enacted, That the justice before whom any person shall be convicted of any offence against this Act may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall require; *videlicet*,

'BE it remembered, That on the day of
'in the year of our Lord at
'in the county of , [*or* riding, division, liberty, city, &c., '*as the case may be*], *A. O.* is convicted before me *J. P.*, one of his Ma'jesty's justices of the peace for the said county [*or* riding, &c.], for that 'he the said *A. O.* did [*specify the offence, and the time and place when and 'where the same was committed, as the case may be; and on a second convic'tion state the first conviction*]; and I the said *J. P.* adjudge the said *A. O.* 'for his said offence to be imprisoned in the [*or* to be im'prisoned in the and there kept to hard labour] for the

'space of [*or*, I adjudge the said *A. O.* for his said 'offence to forfeit and pay [*here state the penalty actually imposed, or state the penalty, and also the value of the articles stolen, or the amount of the injury done, as the case may be*], and also to pay the 'sum of for costs, and in default of immediate payment of the said sums, to be imprisoned in the [*or* 'to be imprisoned in the • and there kept to hard 'labour] for the space of unless the said sums shall be 'sooner paid; [*or*, and I order that the said sums shall be paid by the 'said *A. O.* on or before the day of]; 'and I direct that the said sum of [i. e. *the penalty only*] shall be paid to of aforesaid, in which the said offence was committed, to be by him applied according to the directions of the statute in that case made and provided; '[*or* that the said sum of [i. e. *the penalty*] shall 'be paid to, &c. [*as before*], and that the said sum of '[i. e. *the value of the articles stolen, or the amount of the injury done*] shall 'be paid to *C. D.* [*the party aggrieved, unless he is unknown or has been examined in proof of the offence, in which case state that fact, and dispose of 'the whole like the penalty, as before*]; and I order that the said sum of 'for costs shall be paid to [*the complainant*]. Given under my hand and seal, the day and year first above 'mentioned.'

Appeal.

LXXII. And be it enacted, That in all cases where the sum adjudged to be paid on any summary conviction shall exceed five pounds, or the imprisonment adjudged shall exceed one calendar month, or the conviction shall take place before one justice only, any person, who shall think himself aggrieved by any such conviction, may appeal to the next court of general or quarter sessions, which shall be holden not less than twelve days after the day of such conviction, for the county riding or division wherein the cause of complaint shall have arisen; provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or enter into a recognizance with two sufficient sureties before a justice of the peace, conditioned personally to appear at the said sessions and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; and upon such notice being given, and such recognizance being entered into, the justice, before whom the same shall be entered into, shall liberate such person if in custody; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet; and in case of the dismissal of the appeal, or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment.

No Certiorari, &c.

LXXIII. And be it enacted, That no such conviction or adjudication made on appeal therefrom shall be quashed for want of form, or be removed by *certiorari* or otherwise into any of his Majesty's superior Courts of Record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Convictions to be returned to the Quarter Sessions.

LXXIV. And be it enacted, That every justice of the peace, before whom any person shall be convicted of any offence against this Act, shall transmit the conviction to the next court of general or quarter sessions which shall be holden for the county or place wherein the offence shall have been committed, there to be kept by the proper officer among the records of the court; and upon any indictment or information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence, and the

How far Evidence in future Cases.

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conviction shall be presumed to have been unappealed against, until the contrary be shown.

Venue, in Proceedings against Persons acting under this Act.

LXXV. And, for the protection of persons acting in the execution of this Act, be it enacted, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be laid and tried in the county where the fact was committed, and shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be shall certify his approbation of the action, and of the verdict obtained thereupon.

Notice of Action. General Issue, &c.

This Act not to extend to Scotland or Ireland, except in Two Cases.

LXXVI. Provided always, and be it enacted, That nothing in this act contained shall extend to *Scotland* or *Ireland*, except as follows; (that is to say,) that if any person, having stolen or otherwise feloniously taken any chattel, money, valuable security, or other property whatsoever, in any one part of the United Kingdom, shall afterwards have the same property in his possession in any other part of the United Kingdom, he may be dealt with, indicted, tried, and punished for larceny or theft in that part of the United Kingdom where he shall so have such property, in the same manner as if he had actually stolen or taken it in that part; and if any person in any one part of the United Kingdom shall receive or have any chattel, money, valuable security, or other property whatsoever, which shall have been stolen or otherwise feloniously taken, in any other part of the United Kingdom such person knowing the said property to have been stolen or otherwise feloniously taken, he may be dealt with, indicted, tried, and punished for such offence in that part of the United Kingdom where he shall so receive or have the said property, in the same manner as if it had been originally stolen or taken in that part.

To extend to Offences committed at Sea.

LXXVII. And be it enacted, That where any felony or misdemeanor punishable under this Act, shall be committed within the jurisdiction of the Admiralty of *England*, the same shall be dealt with, inquired of, tried, and determined in the same manner as any other felony or misdemeanor committed within that jurisdiction.

[No. LVIII.] 9 Geo. IV. c. 55.—An Act for consolidating and amending the Laws in *Ireland*, relative to Larceny, and other offences connected therewith.—[15th *July* 1828.]

No. LVIII. 9 Geo. IV. c. 55.

WHEREAS in the last session of Parliament an Act was passed for consolidating and amending the laws in *England* relative to larceny, and other offences connected therewith; and it is expedient that provision should be made in *Ireland* for the like purposes: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that this present Act, and the several matters herein contained, shall extend to *Ireland* and not to *England Wales* or *Scotland*, except in the two cases herein-after

Act to extend to Ireland only, and shall commence on 1st Sept. 1828.

specially provided for; and that this Act shall commence and take effect in *Ireland* on the first day of *September* one thousand eight hundred and twenty-eight.

Distinction between Grand and Petty Larceny abolished; all Larceny shall be considered as Grand Larceny.

II. And be it enacted, That the distinction between grand larceny and petty larceny shall be abolished, and every larceny (whatever be the value of the property stolen) shall be deemed to be of the same nature, and shall be subject to the same incidents in all respects, as grand larceny was before the commencement of this Act; and every court whose power as to the trial of larceny was before the commencement of this Act limited to petty larceny, shall have power to try every case of larceny the punishment of which cannot exceed the punishment herein-after mentioned for simple larceny, and also to try all accessories to such larceny.

Punishments for Simple Larceny, or Felony punishable as such.

III. And be it enacted, That every person convicted of simple larceny, or of any felony hereby made punishable like simple larceny, shall (except in the cases herein-after otherwise provided for) be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

For all Offences under this Act hard Labour or solitary Confinement may be added to Imprisonment.

IV. And be it enacted, That in all cases whenever any person shall be convicted of any felony, crime, misdemeanor, or indictable offence punishable under this Act, for which imprisonment may be awarded, with or without any other punishment, it shall be lawful for the court to sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour in the common gaol or house of correction; and it shall also be lawful for such court to direct that the offender shall be kept in solitary confinement for the whole or any portion or portions of such imprisonment, or of such imprisonment, with hard labour, as to the court in its discretion shall seem meet.

Stealing public or private Securities for Money, or Warrants for Goods, &c. Felony, punishable, according to the Circumstances, as stealing Goods.

V. And be it enacted, That if any person shall steal any tally, order, exchequer acquittance, or other security whatsoever, entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of the United Kingdom, or of *Great Britain*, or of *England*, or of *Scotland*, or of *Ireland*, or of any foreign state, or in any fund of any body corporate lawfully acting as a company or society, or to any deposit in any savings bank, or shall steal any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever, for money or for payment of money, whether of the United Kingdom, or of *Great Britain*, or of *England*, or of *Scotland*, or of *Ireland*, or of any foreign state, or shall steal any warrant or order for the delivery or transfer of any goods or valuable thing, every such offender shall be deemed guilty of felony of the same nature and in the same degree, and punishable in the same manner, as if he had stolen any chattel of like value with the share interest or deposit to which the security so stolen may relate, or of like value with the money due on the security so stolen, or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing mentioned in the warrant or order; and each of the several documents herein-before enumerated shall throughout this Act be deemed for every purpose to be included under and denoted by the words "valuable security."

Rule of Interpretation.

Robbery from the Person, Felony, with Death. Stealing from the Person, or assaulting or menacing with Intent to rob, &c., Felony, with Transportation, &c.

VI. And be it enacted, That if any person shall rob any other person of any chattel money or valuable security, every such offender, being convicted thereof, shall suffer death as a felon; and if any person shall steal any such property from the person of another, or shall assault any other person with intent to rob him, or shall with menaces or by force demand any such property of any other person, with intent to steal the same, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

No. LVIII. 9 Geo. IV. c. 55.

Obtaining Money, &c. by threatening to accuse a Party of an infamous Crime.

VII. And be it enacted, That if any person shall accuse or threaten to accuse any other person of any infamous crime, as herein-after defined, with a view or intent to extort or gain from him, and shall by intimidating him by such accusation or threat extort or gain from him, any chattel money or valuable security, every such offender shall be deemed guilty of robbery, and shall be indicted and punished accordingly.

Sending Letters containing menacing Demands, or threatening to accuse a Party of an infamous Crime, to extort Money, &c.

VIII. And be it enacted, That if any person shall knowingly send or deliver any letter or writing, demanding of any person, with menaces, and without any reasonable or probable cause, any chattel money or valuable security, or if any person, with a view or intent to extort or unlawfully gain any money or chattel or valuable security, shall accuse or threaten to accuse, or shall knowingly send or deliver, or directly or indirectly cause to be received, any letter or writing, accusing or threatening to accuse any person of any crime punishable by law with death transportation or pillory, or of any assault with intent to commit any rape, or of any attempt or endeavour to commit any rape, or of any infamous crime, as herein-after defined, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

What shall be deemed an infamous Crime.

IX. And for defining what shall be an infamous crime within the meaning of this Act, be it enacted, That the abominable crime of buggery, committed either with mankind or with beast, and every assault with intent to commit the said abominable crime, and every attempt or endeavour to commit the said abominable crime, and every solicitation, persuasion, promise, or threat offered or made to any person, whereby to move or induce such person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this Act.

Stealing in or from a Church, with breaking in or out, Felony, with Death.

X. And be it enacted, That if any person shall break and enter any church, meeting-house, chapel, or other place of divine worship, and shall steal therein or therefrom any chattel, or having stolen any chattel in or from any church, meeting-house, chapel, or other place of divine worship, shall break out of the same, every such offender, being convicted thereof, shall suffer death as a felon.

Burglary, Felony, with Death.

XI. And be it enacted, That every person convicted of burglary shall suffer death as a felon; and it is hereby declared, that if any person shall enter the dwelling-house of another with intent to commit felony, or being in such dwelling-house, shall commit any felony, and shall in either case break out of the said dwelling-house in the night-time, such person shall be deemed guilty of burglary.

House-breaking, and stealing in a House.

XII. And be it enacted, That if any person shall break and enter any dwelling-house, and steal therein any chattel money or valuable security to any value whatever, or shall steal any such property to any value whatever in any dwelling-house, any person therein being put in fear, or shall steal in any dwelling-house any chattel money or valuable security to the value in the whole of five pounds or more, every such offender, being convicted thereof, shall in any of such cases suffer death as a felon.

No Buildings deemed Part of a House for aforesaid Purposes, unless directly communicating.

XIII. Provided always, and be it enacted, That no building, although within the same curtilage with the dwelling-house, and occupied therewith, shall be deemed to be part of such dwelling-house for the purpose of burglary, or for any of the purposes aforesaid, unless there shall be a communication between such building and dwelling-house, either immediate or by means of a covered and inclosed passage leading from the one to the other.

Robbery in any Building within the same Curtilage, but not privileged as Part of the House, Transportation, &c.

XIV. And be it enacted, That if any person shall break and enter any building, and steal therein any chattel money or valuable security, such building being within the curtilage of a dwelling-house, and occupied therewith, but not being part thereof, according to the provisions herein-be-

fore mentioned, every such offender, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment: Provided always, that a conviction for such offence as herein last mentioned may be had either upon an indictment for such offence, or upon an indictment for burglary housebreaking or stealing to the value of five pounds in a dwelling-house, containing a court or courts for such offence; and that in case of such latter indictment the prosecutor shall be permitted to proceed upon the whole or any part of such indictment, without being put to any election, before the trial of such offender, to proceed upon any one or more of the counts in such indictment.

Form of Indictment in such Case.

XV. And be it enacted, That if any person shall break and enter any shop warehouse or counting-house, and steal therein any chattel money or valuable security, every such offender, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Robbery in a Shop, Warehouse, &c. Transportation, &c.

XVI. And be it enacted, That if any person shall steal to the value of five shillings, any linen hempen or cotton yarn, or any goods or article of silk, woollen, linen, or cotton, or of any one or more of those materials mixed with each other, or mixed with any other material, whilst laid placed or exposed, during any stage process or progress of manufacture, in any building field or other place, every such offender, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Stealing certain Goods in Process of Manufacture, Transportation, &c.

XVII. And be it enacted, That if any person shall steal any goods or merchandize in any vessel barge or boat of any description whatever, in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such port river or canal, or shall steal any goods or merchandize from any dock wharf or quay adjacent to any such port, river, canal, creek or basin, every such offender, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Stealing Goods from a Vessel in a Port, River, or Canal, &c., or from Wharfs, Transportation, &c.

XVIII. And be it enacted, That if any person shall plunder or steal any part of any ship or vessel which shall be in distress, or wrecked stranded or cast on shore, or any goods merchandize or articles of any kind, belonging to such ship or vessel, every such offender, being convicted thereof, shall suffer death as a felon: Provided always, that when articles of small value shall be stranded or cast on shore, and shall be stolen without circumstances of cruelty outrage or violence, it shall be lawful to prosecute and punish such offender as for simple larceny; and in either case the offender may be indicted and tried either in the county in which, or in any county next adjoining, the place in which the offence shall have been committed.

Plundering any Part of the Tackle or Cargo of a shipwrecked Vessel, Felony, with Death.

XIX. And be it enacted, That if any goods merchandize or articles of any kind, belonging to any ship or vessel in distress, or wrecked stranded or cast on shore as aforesaid, shall, by virtue of a search warrant, to be granted as herein-after mentioned, be found in the possession of any person, or on the premises of any person with his knowledge, and such person, being carried before a justice of the peace, shall not satisfy the justice that he came lawfully by the same, then the same shall by order of the justice be forthwith delivered over to or for the use of the rightful

Persons in possession of shipwrecked Goods, not giving a satisfactory Account, shall pay a Penalty not exceeding 50*l.*

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owner thereof, and the offender, on conviction of such offence before any two justices of the peace, shall forfeit and pay such sum of money, not exceeding fifty pounds, as to such justices shall seem meet.

Shipwrecked Goods offered for Sale may be seized, and ordered by a Justice to be restored to the Owner, paying Salvage.

XX. And be it enacted, That if any person shall offer or expose for sale any goods merchandize or articles whatsoever, which shall have been unlawfully taken, or reasonably suspected to have been taken from any ship or vessel in distress, or wrecked stranded or cast on shore as aforesaid, in every such case any person to whom the same shall be offered for sale, or any officer of the customs or excise, or peace officer, may lawfully seize the same, and shall with all convenient speed carry the same, or give notice of such seizure, to some justice of the peace; and if the person who shall have offered or exposed the same for sale, being duly summoned by such justice, shall not appear and satisfy the justice that he came lawfully by such goods merchandize or articles, then the same shall by order of the justice be forthwith delivered over to or for the use of the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the justice) to the person who seized the same; and the person having offered such goods merchandize or articles for sale, shall, on conviction of such offence before any two justices of the peace, forfeit and pay the amount of such reward so ordered, and also such sum of money, not exceeding thirty pounds, as to such two justices shall seem meet.

Penalty on Person offering Goods for Sale.

Stealing, &c. of Records and other Proceedings of Courts of Justice, Misdemeanor, punishable by Transportation, &c.

XXI. And be it enacted, That if any person shall steal, or shall for any fraudulent purpose take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously obliterate injure, or destroy any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or any original document whatsoever, or any part of any such document, of or belonging to any Court of Record, or relating to any matter, civil or criminal, begun, depending, or terminated in any such court, or any bill, answer, interrogatory, deposition, affidavit, order or decree, or any original document whatsoever, of or belonging to any court of equity, or relating to any cause or matter begun, depending or terminated in any such court, or any part thereof respectively, or any original document or part of any original document, in anywise relating to or concerning the business of any person or persons holding any office or employment under his Majesty, and remaining or deposited for safe custody in any office appertaining to any court of justice, or in his Majesty's castle of *Dublin*, or in any of his Majesty's custom-houses post-offices or other public offices in *Ireland*, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to suffer such other punishment, by fine or imprisonment, or by both, as the court shall award; and it shall not be necessary to allege in any indictment, or to prove on any trial for such offence, that the article in respect of which the offence is charged to have been committed is the property of any person, or that the same is of any value, nor shall it be the subject of inquiry at the trial of any such offence, whether the thing charged to have been stolen is or is not of any intrinsic value.

Stealing of Wills, a Misdemeanor, punishable by Transportation, &c.

XXII. And be it enacted, That if any person shall either during the life or after the death of any testator or testatrix, steal or shall for any fradulent purpose destroy or conceal, any will, or codicil, or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to suffer such other punishment, by fine or imprisonment, or both, as the court shall award; and it shall not be necessary to allege in any indictment, or to prove on any trial for such offence, that such will or codicil, or other instrument, is the property of any person, or that the same is of any value, nor shall it be a subject of inquiry at such trial whether the same is or is not of any intrinsic value.

Stealing of Writings relating to Real Estate.

XXIII. And be it enacted, That if any person shall steal any paper or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or of any part of the title, to any real estate, every such offender shall be deemed guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to suffer such other punishment, by fine or imprisonment, or both, as the court shall award; and in any indictment for such offence, it shall be sufficient to allege the thing charged to have been stolen to be or to contain evidence of the title or of part of the title of the person, or of some one of the persons, having an interest, whether vested, contingent, legal, or equitable, in the real estate, to which the same relates, and to mention such real estate or some part thereof; and it shall not be necessary to allege or prove the thing charged to have been stolen to be of any value, nor shall it be inquired into at the trial what the value thereof is, or whether the same is or is not of any intrinsic value.

Provisions as to Wills, &c. shall not lessen any other Remedy.

Conviction shall not be Evidence in Actions against Offender.

Offender shall not be convicted by Evidence disclosed by himself.

XXIV. Provided always, and be it enacted, That nothing in this Act contained, relating to either of the misdemeanors last aforesaid, nor any proceeding conviction or judgment to be had or taken thereupon, shall prevent lessen or impeach any remedy, at law or in equity, which any party aggrieved by any such offence might or would have had if this Act had not been passed; but nevertheless the conviction of any such offender shall not be received in evidence in any action at law or suit in equity against such offender: Provided also, that no person shall be liable to be convicted of either of the misdemeanors last aforesaid, in respect of any act done by him, by any evidence disclosed by him in consequence of any compulsory process of any court of law or equity, in any action suit or proceeding which shall have been *bonâ fide* instituted by any party aggrieved, or by any evidence disclosed by such person in any examination or deposition before any commissioners of bankrupt.

Stealing Horses, Cows, Sheep, &c. Felony, with Death.

Persons convicted of stealing Cows, &c. not exceeding Two, or Calves, Sheep, &c. not exceeding Ten, may, on Recommendation of Grand Jury, be transported.

XXV. And be it enacted, That if any person shall steal any horse, mare, gelding, colt, or filly, or any bull, cow, ox, steer, bullock, heifer, or calf, or any ram, ewe, sheep, or lamb, or shall wilfully kill any of such cattle, with intent to steal the carcase or skin or any part of the cattle so killed, every such offender shall be guilty of felony, and being convicted thereof shall suffer death as a felon: Provided always, that where any person shall be convicted of stealing any one cow, bull, ox, steer, bullock, or heifer, or any number of cows, bulls, oxen, steers, bullocks, or heifers, not exceeding two, or of stealing any one calf sheep or lamb, or any number of calves sheep or lambs, not exceeding ten, on all the indictments which shall be preferred against such person at one and the same assizes, or sessions of oyer and terminer, or in the same term, in the Court of King's Bench, in case the court shall, upon the application of the grand jury at the said assizes, or sessions, or term, by presentment in writing for that purpose, think any such convicted person a fit object of mercy, then such convicted person, instead of the punishment aforesaid shall and may be transported beyond the seas for life, or for such term of years as the court shall think proper: Provided always, that nothing herein contained shall affect the power of the court, (in any case where a grand jury shall not make such application,) to order sentence of death to be recorded, under the provisions of an Act passed in the fourth year of his present Majesty's reign, intituled *An Act for enabling Courts to abstain from pronouncing Sentence of Death in certain Capital Felonies.*

4 G. 4. c. 48.

Stealing, &c. Deer in any inclosed Ground, Forfeiture of 30*l.*

XXVI. And be it enacted, That if any person shall unlawfully and wilfully course, hunt, snare, or carry away, or kill or wound, or attempt to kill or wound, any deer kept or being in any park paddock or inclosed land wherein deer shall be usually kept, every such offender shall for every such offence, upon conviction thereof before any two justices of the peace, forfeit any sum not exceeding thirty pounds.

Penalty on suspected Persons found in possession of Venison, &c. 20*l.*

XXVII. And be it enacted, That if any deer, or the head skin or other part thereof, or any snare or engine for the taking of deer, shall by virtue of a search warrant, to be granted as herein-after mentioned, be found in

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the possession of any person, or on the premises of any person, with his knowledge, and such person being carried before a justice of the peace shall not satisfy the justice that he came lawfully by such deer, or the head skin or other part thereof, or that he had a lawful occasion for such snare or engine, and did not keep the same for any unlawful purpose, he shall, on conviction by the justice, forfeit and pay any sum not exceeding twenty pounds; and if any such person shall not, under the provisions aforesaid, be liable to conviction, then for the discovery of the party who actually killed or stole such deer, it shall be lawful for the justice, at his discretion, as the evidence given and the circumstances of the case shall require, to summon before him any and every person through whose hands such deer, or the head skin or other part thereof, shall appear to have passed; and if the person from whom the same shall have been first received, or any person who shall have had possession thereof, shall not satisfy the justice that he came lawfully by the same, he shall, on conviction by the justice, be liable to the payment of such sum of money, as is herein-before last mentioned.

In case they are not convicted, Justice may summon other Parties.

Stealing Dogs, or Beasts or Birds, ordinarily kept in Confinement, and not the Subjects of Larceny.

XXVIII. And be it enacted, That if any person shall steal any dog, or shall steal any beast or bird ordinarily kept in a state of confinement, not being the subject of larceny at common law, every such offender, being convicted thereof before two justices of the peace, shall for the first offence forfeit and pay the value of the dog beast or bird and also such sum of money, not exceeding twenty pounds, as to such justices shall seem meet; and if any person so convicted thereof shall afterwards be guilty of any of the said offences and shall be convicted thereof in like manner, every such offender shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding twelve calendar months, as the convicting justices shall think fit.

Persons in whose Possession stolen Dogs, &c., are found liable to such Penalty and Punishment as the Stealers.

XXIX. And be it enacted, That if any dog or any such beast, or the skin thereof, or any such bird, or any of the plumage thereof, shall be found in the possession or on the premises of any person, by virtue of a search warrant, to be granted as herein-after mentioned, the justice by whom such warrrant shall be granted may restore the same respectively to the owner thereof, and the person in whose possession or on whose premises the same shall be so found (such person knowing that the dog, beast or bird has been stolen, or that the skin is the skin of a stolen dog or beast, or that the plumage is the plumage of a stolen bird,) shall, on conviction before two justices of the peace, be liable for the first offence to such forfeiture, and for every such subsequent offence to such punishment as persons convicted of stealing any dog beast or bird are herein-before made liable to.

Stealing Ore, &c., from Mines, Felony, punishable as Larceny.

XXX. And be it enacted, That if any person shall steal, or sever with intent to steal, the ore of any metal, or any lapis calaminaris manganese or mundick, or any wad, black cawke, or black lead, or any coal or cannel coal, from any mine, bed or vein thereof respectively, every such offender shall be guilty of felony, and being convicted thereof shall be liable to be punished in the same manner as in the case of simple larceny.

Stealing Trees, Shrubs, &c. growing in Parks, Gardens, &c., exceeding the Value of 1*l.* or elsewhere, exceeding 5*l.* Felony, punishable as Larceny.

XXXI. And be it enacted, That if any person shall steal, or shall cut, break, root up, or otherwise destroy or damage, with intent to steal, the whole or any part of any tree sapling or shrub, or any underwood respectively growing in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house, every such offender, in case the value of the article or articles stolen, or the amount of the injury done, shall exceed the sum of one pound, shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny; and if any person shall steal, or shall cut, break, root up, or otherwise destroy or damage, with intent to steal, the whole or any part of any tree sapling or shrub, or any underwood respectively, growing elsewhere than in any of the situations herein-before mentioned, every such offender (in case the value of the article or articles stolen, or the amount of the injury done, shall exceed the sum of five pounds) shall be guilty of felony, and being convicted

thereof, shall be liable to be punished in the same manner as in the case of simple larceny.

Stealing Trees, &c., wheresoever growing, of the Value of 1*s.*, punishable on summary Conviction; for First Offence 5*l.*, and Second Offence Imprisonment; Third Offence Felony, punishable as Larceny.

XXXII. And be it enacted, That if any person shall steal, or shall cut, break, root up or otherwise destroy or damage, with intent to steal, the whole or any part of any tree sapling or shrub, or any underwood wheresoever the same may be respectively growing, the stealing of such article or articles, or the injury done, being to the amount of one shilling at the least, every such offender, being convicted before two justices of the peace shall for the first offence forfeit and pay the value of the article or articles stolen, or the amount of the injury done, and also such sum of money, not exceeding five pounds, as to the justices shall seem meet; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in like manner, every such offender shall for such second offence be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding twelve calendar months, as the convicting justices shall think fit; and if any person so twice convicted shall afterwards commit any of the said offences, such offender shall be deemed guilty of felony, and being convicted thereof shall be liable to be punished in the same manner as in the case of simple larceny.

Stealing, &c. any live or dead Fence, wooden Stile or Gate; First Offence 5*l.* Second Offence, Imprisonment, &c.

XXXIII. And be it enacted, That if any person shall steal, or shall cut break or throw down, with intent to steal, any part of any live or dead fence, or any wooden post pale or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, every such offender, being convicted before two justices of the peace, shall for the first offence forfeit and pay the value of the article or articles so stolen, or the amount of the injury done, and also such sum of money, not exceeding five pounds, as to the justices shall seem meet; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in like manner, every such offender shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding twelve calendar months, as the convicting justices shall think fit.

Penalty on suspected Persons in possession of Wood, &c., 2*l.*

XXXIV. And be it enacted, That if the whole or any part of any tree sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, rail, stile, or gate, or any part thereof, being of the value of two shillings at the least, shall by virtue of a search warrant, to be granted as herein-after mentioned, be found in the possession of any person, or on the premises of any person with his knowledge, and such person being carried before a justice or justices of the peace, shall not satisfy the justice or justices that he came lawfully by the same, he shall, on conviction by the justice or justices, forfeit and pay the value of the article or articles so found, and also any sum not exceeding two pounds.

Stealing, &c. Fruit or Vegetables in a Garden, &c. punishable on summary Conviction; for First Offence, by Imprisonment, or Fine of 20*l.*; Second Offence, Felony, punishable as Larceny.

XXXV. And be it enacted, That if any person shall steal, or shall destroy or damage, with intent to steal, any plant, root, fruit, or vegetable production growing in any garden, orchard, nursery ground, hothouse, greenhouse or conservatory, every such offender, being convicted thereof before a justice or justices of the peace, shall, at the discretion of the justice or justices, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding six calendar months, or else shall forfeit and pay the value of the article or articles so stolen, or the amount of the injury done, and also such sum of money, not exceeding twenty pounds, as to the justice or justices shall seem meet; and if any person so convicted shall afterwards commit any of the said offences, such offender shall be deemed guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny.

Stealing, &c. Vegetable Productions, not growing in Gardens, &c.; First Offence, Imprisonment, or Fine of 20*s.*; Second Offence, &c., Imprisonment, &c.

XXXVI. And be it enacted, That if any person shall steal, or shall destroy or damage with intent to steal, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden orchard or nursery ground, every such

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offender, being convicted before two justices of the peace, shall, at the discretion of the justices, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding one calendar month, or else shall forfeit and pay the value of the article or articles so stolen, or the amount of the injury done, and also such sum of money, not exceeding twenty shillings, as to the justices shall seem meet, and in default of payment thereof, together with the costs, (if ordered,) shall be committed as aforesaid, for any term not exceeding one calendar month, unless payment be sooner made; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in like manner, every such offender shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding six calendar months, as the convicting justices shall think fit.

Stealing Glass or Wood Work, or Fixtures of any kind, from Buildings and Metal Fixtures from Grounds, Felony, punishable as Larceny.

XXXVII. And be it enacted, That if any person shall steal or rip cut or break, with intent to steal, any glass or wood work belonging to any building whatsoever, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material, respectively fixed in or to any building whatsoever, or any thing made of metal fixed in any land, being private property, or for a fence to any dwelling-house garden or area, or in any square street or other place dedicated to public use or ornament, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny; and in case of any such thing fixed in any square street or other like place, it shall not be necessary to allege the same to be the property of any person: Provided always, that nothing herein contained shall be construed to affect any enactment or law for the punishment of persons guilty of stealing any such property belonging to or vested in any commissioners or other persons, under any Act for paving, cleansing, lighting or improving any city town or place in *Ireland*.

Tenants and Lodgers stealing any Property from Houses or Apartments let to them, Felony, punishable as Larceny. Form of Indictment.

XXXVIII. And for the punishment of depredations committed by tenants and lodgers, be it enacted, That if any person shall steal any chattel or fixture let to be used by him or her in or with any house or lodging, whether the contract shall have been entered into by him or her, or by her husband, or by any person on behalf of him or her, or her husband, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny; and it shall be lawful in every such case of stealing any chattel to prefer an indictment in the common form, as for larceny, and in every such case of stealing any fixture, to prefer an indictment in the same form, as if the offender were not a tenant or lodger, and in either case to lay the property in the owner, or the person letting to hire.

Clerks and Servants (not punishable capitally) stealing Property of their Masters, Transportation or Imprisonment.

XXXIX. And for the punishment of depredations not punishable capitally, committed by clerks and servants, and such other persons as herein-after mentioned, be it enacted, That if any clerk or servant shall steal any chattel money or valuable security, belonging to or in the possession or power of his master or employer, every such offender being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years nor less than seven years, or to be imprisoned for any time not exceeding three years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Clerks or Servants receiving any Money, &c. on their Master's Account, and embezzling it, shall be deemed to have stolen it feloniously, although never in the Master's Possession.

XL. And for the punishment of embezzlement committed by clerks and servants, be it enacted, That if any clerk or servant, or any person employed for the purpose or in the capacity of a clerk or servant, shall, by virtue of such employment, receive or take into his possession any chattel money or valuable security, for or in the name or on the account of his master or employer, and shall fraudulently embezzle the same or

any part thereof, every such offender shall be deemed to have feloniously stolen the same from his master or employer, although such chattel money or security was not received into the possession of such master or employer otherwise than by the actual possession of his clerk servant or other person so employed; and every such offender, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years nor less than seven years, or to be imprisoned for any term not exceeding three years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Distinct Acts of Embezzlement may be charged in the same Indictment.

XLI. And for preventing the difficulties which have been experienced in the prosecution of such offenders, be it enacted, That it shall be lawful to charge in the indictment and to proceed against the offender for any number of distinct Acts of embezzlement, not exceeding three, which may have been committed by him against the same master or employer, within the space of six calendar months from the first to the last of such Acts; and in every such indictment, where the offence shall relate to any money or any valuable security, it shall be sufficient to allege the embezzlement to be of money, without specifying any particular coin or valuable security, and such allegation, so far as regards the description of the property, shall be sustained, if the offender shall be proved to have embezzled to any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved, or if he shall be proved to have embezzled any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value thereof shall be returned to the party delivering the same, and although such part shall have been returned accordingly.

Allegation and Proof of the Property embezzled.

Agents embezzling Money entrusted to them, and directed to be applied to any special Purposes, Misdemeanor, punishable by Transportation, &c.

XLII. And for the punishment of embezzlements committed by agents entrusted with property, be it enacted, That if any money or security for the payment of money, shall be entrusted to any banker, merchant, broker, attorney or other agent, with any direction in writing to apply such money, or any part thereof, or the proceeds or any part of the proceeds of such security for any purpose specified in such direction, and he shall, in violation of good faith, and contrary to the purpose so specified, in anywise convert to his own use or benefit such money security or proceeds or any part thereof respectively, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years nor less than seven years, or to suffer such other punishment by fine or imprisonment, or by both, as the court shall award; and if any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund, whether of the United Kingdom, or of any part thereof, or of any foreign state, or in any fund of any body corporate company or society, shall be entrusted to any banker, merchant, broker, attorney, or other agent, for safe custody, or for any special purpose, without any authority to sell, negotiate, transfer, or pledge, and he shall, in violation of good faith, and contrary to the object or purpose for which such chattel security or power of attorney shall have been entrusted to him, sell, negotiate, transfer, pledge, or in any manner convert to his own use or benefit such chattel or security, or the proceeds of the same, or any part thereof, or the share or interest in the stock or fund to which such power of attorney shall relate, or any part thereof, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to any of the punishments which the court may award, as herein-before last mentioned.

Like Punishment for Agents embezzling or converting any Goods or valuable Security entrusted to them for safe Custody, or for any special Purpose.

Not to affect Trustees or Mortgagees;

nor Bankers, &c., receiving Money due on Securities;

XLIII. Provided always, and be it enacted, That nothing herein-before contained relating to agents shall affect any trustee in or under any instrument whatever, or any mortgagee of any property, real or personal, in respect of any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trustee or mortgagee; nor shall restrain any banker, merchant, broker, attorney, or other agent, from receiving any money which shall be or become actually due and payable upon

or by virtue of any valuable security, according to the tenor and effect thereof, in such manner as he might have done if this Act had not been passed; nor from selling transferring or otherwise disposing of any securities or effects in his possession, upon which he shall have any lien claim or demand entitling him by law so to do, unless such sale transfer or other disposal shall be wilfully and fraudulently extended to a greater number or part of such securities or effects than shall be requisite for satisfying such lien claim or demand.

or disposing of Securities on which they have a Lien.

Factors pledging for their own Use any Goods or Documents relating to Goods entrusted to them for the Purpose of Sale, Misdemeanor, punishable by Transportation, &c.

XLIV. And be it enacted, That if any factor or agent entrusted for the purpose of sale with any goods or merchandize, or entrusted with any bill of lading, warehouse-keeper's or wharfinger's certificate, or any bought and sold note, or any warrant or order for delivery of goods or merchandize, shall for his own benefit, and in violation of good faith, deposit or pledge any such goods or merchandize, or any of the said documents, as a security for any money or negotiable instrument borrowed or received by such factor or agent at or before the time of making such deposit or pledge, or intended to be thereafter borrowed or received, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years nor less than seven years, or to suffer such other punishment by fine or imprisonment, or by both, as the court shall award; but no such factor or agent shall be liable to any prosecution for depositing or pledging any such goods or merchandize, or any of the said documents, in case the same shall not be made a security for or subject to the payment of any greater sum of money than the amount which at the time of such deposit or pledge was justly due and owing, or *bonâ fide* supposed by such factor or agent to be due and owing, to such factor or agent from his principal, together with the amount of any bill or bills of exchange drawn by or on account of such principal, and accepted by such factor or agent, and of any other engagement made by such factor or agent on account of his principal, and to the payment of which such factor or agent is legally liable,

Not to extend to Cases where the Pledge does not exceed the Amount of the Lien.

Provisions as to Agents shall not lessen Remedy by the Party aggrieved; but Conviction shall not be receivable in Evidence in Actions.

Offender shall not be convicted by Evidence disclosed by him.

XLV. Provided always, and be it enacted, That nothing in this Act contained, nor any proceeding, conviction, or judgment to be had or taken thereupon against any banker, merchant, broker, factor, attorney, or other agent, or any such clerk or servant, or person employed in the capacity of clerk or servant, as aforesaid, shall prevent lessen or impeach any remedy at law or in equity which any party aggrieved by any such offence might or would have had if this Act had not been made; but nevertheless the conviction of any such offender shall not be received in evidence in any action at law or suit in equity against him; and no banker, merchant, broker, factor, attorney, or other agent as aforesaid, or clerk or servant, or person employed in the capacity of clerk or servant, shall be liable to be convicted of any offence of embezzlement against this Act, in respect of any Act done by him, by any evidence disclosed by him in consequence of any compulsory process of any court of law or equity, in any action suit or proceeding which shall have been *bonâ fide* instituted by any party aggrieved, or by any evidence disclosed by such person in any examination or deposition before any commissioners of bankrupt.

Obtaining Money, &c. by false Pretences, a Misdemeanor.

XLVI. And whereas a failure of justice frequently arises from the subtle distinction between larceny and fraud; for remedy thereof be it enacted, That if any person shall by any false pretence obtain from any other person any chattel, money, or valuable security, with intent to cheat or defraud any person of the same, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to suffer such other punishment by fine or imprisonment, or by both, as the court shall award: Provided always, that if upon the trial of any person indicted for such misdemeanor it shall be proved that he obtained the property in question in any such manner as to amount in law to larceny, he shall by reason thereof be entitled to be acquitted of such misdemeanor; and no such indictment shall be removable by *cer-*

tiorari; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts.

Where the original Offence is Felony, the Receiver of stolen Property may be tried either as an Accessory after the Fact, or for a substantive Felony; and punished by Transportation, &c.

XLVII. And with regard to receivers of stolen property, be it enacted, That if any person shall receive any chattel, money, valuable security, or other property whatsoever, the stealing or taking whereof shall amount to a felony, either at common law or by virtue of this Act, such person knowing the same to have been feloniously stolen or taken, every such receiver shall be guilty of felony, and may be indicted and convicted, either as an accessory after the fact, or for a substantive felony, and in the latter case, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and every such receiver, howsoever convicted, shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding fourteen years nor less than seven years, or to be imprisoned for any term not exceeding three years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment: Provided always, that no person, howsoever tried for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence.

Where the original Offence of stealing, or converting Property, is a Misdemeanor, Receiver may be prosecuted for a Misdemeanor, whether Principal be convicted or not.

XLVIII. And be it enacted, That if any person shall receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, obtaining, or converting whereof is made an indictable misdemeanor by this Act, such person knowing the same to have been unlawfully stolen, taken, obtained, or converted, every such receiver shall be guilty of a misdemeanor, and may be indicted and convicted thereof, whether the person guilty of the principal misdemeanor shall or shall not have been previously convicted thereof, or shall or shall not be amenable to justice; and every such receiver shall on conviction be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Receiver may be tried where the Principal is triable, or where the Property is found in his Possession, or where the receiving takes place.

XLIX. And be it enacted, That if any person shall receive any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, or converted, every such person, whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, may be dealt with, indicted, tried, and punished in any county or place in which he shall have or shall have had any such property in his possession, or in any county or place in which the party guilty of the principal felony or misdemeanor may by law be tried, in the same manner as such receiver may be dealt with, indicted, tried, and punished in the county or place where he actually received such property.

The Owner of stolen Property, prosecuting Thief or Receiver to Conviction, shall have Restitution of his Property. Exception as to bonâ fide Payment or Transfer of valuable Securities.

L. And to encourage the prosecution of offenders, be it enacted, That if any person guilty of any such felony or misdemeanor as aforesaid, in stealing, taking, obtaining, or converting, or in knowingly receiving, any chattel, money, valuable security, or other property whatsoever, shall be indicted for any offence by or on the behalf of the owner of the property, or his executor or administrator, and convicted thereof, in such case the property shall be restored to the owner or his representative; and the court before whom any such person shall be so convicted shall have power to award from time to time writs of restitution for the same property, or to order the restitution thereof in a summary manner: Provided always, that if it shall appear, before any award or order made, that any valuable security shall have been *bonâ fide* paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument, shall have been *bonâ fide* taken or received by transfer or delivery, by some person or body corporate, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had by any felony or misdemeanor been stolen, taken, obtained, or converted, as aforesaid, in such case the court shall not award or order the restitution of such security.

Taking a Reward for helping to the Recovery of stolen Property, without bringing the Offender to Trial, Felony, punishable by Transportation, &c. Penalty on advertising a Reward for the Return of stolen Property without Inquiry, &c. 50*l.*

LI. And be it enacted, That every person who shall corruptly take any money or reward, directly or indirectly, under pretence or upon account of helping any person to any chattel, money, valuable security, or other property whatsoever, which shall by any felony or misdemeanor have been stolen, taken, obtained or converted as aforesaid, shall (unless he cause the offender to be apprehended and brought to trial for the same) be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned, for any term not exceeding four years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

LII. And be it enacted, that if any person shall publicly advertise a reward for the return of any property whatsoever which shall have been stolen or lost, and shall in such advertisement use any words purporting that no questions will be asked, or shall make use of any words in any public advertisement purporting that a reward will be given or paid for any property which shall have been stolen or lost, without seizing or making any inquiry after the person producing such property, or shall promise or offer in any such public advertisement to return to any pawnbroker or other person who may have bought or advanced money by way of loan upon any property stolen or lost, the money so paid or advanced, or any other sum of money or reward for the return of such property, or if any person shall print or publish any such advertisement, in any of the above cases every such person shall forfeit the sum of fifty pounds for every such offence, to any person who will sue for the same, by action of debt, to be recovered with full costs of suit.

Receivers of Property, where the original Offence is punishable summarily, shall be punishable as original Offenders.

LIII. And be it enacted, That where the stealing or taking of any property whatsoever is by this Act punishable on summary conviction, either for every offence or for the first and second offence only, or for the first offence only, any person who shall receive any such property, knowing the same to be unlawfully come by, shall on conviction thereof, before a justice or justices of the peace, be liable, for every first second or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first second or subsequent offence of stealing or taking such property is by this Act made liable.

Accessories before the Fact, &c., in Felonies. Accessories after the Fact. Abettors in Misdemeanors.

LIV. And be it enacted, That in the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable with death, or otherwise, in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act, (except only a receiver of stolen property,) shall, on conviction, be liable to be imprisoned for any term not exceeding two years; and every person who shall aid abet counsel or procure the commission of any misdemeanor punishable under this Act, shall be liable to be indicted and punished as a principal offender.

Abettors in Offences punishable summarily shall be punished as Principals.

LV. And be it enacted, That if any person shall aid, abet, counsel, or procure the commission of any offence which is by this Act punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, every such person shall, on conviction before a justice or justices of the peace, be liable, for every first second or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first second or subsequent offence as a principal offender is by this Act made liable.

Persons in the Act of committing Offences may be apprehended without Warrant.

LVI. And for the more effectual apprehension and discovery of all offenders punishable under this Act, be it enacted, That any person found committing any offence punishable, either upon indictment or upon summary conviction, by virtue of this Act, may be immediately apprehended without a warrant, by any peace officer, or by the owner of the property on or with respect to which the offence shall be committed, or by the servant of or any person authorised by such owner, and such offender shall and may be forthwith taken before some neighbouring justice of the peace,

to be dealt with according to law; and if any credible witness shall prove upon oath before a justice of the peace that there is reasonable cause to suspect that any property whatsoever, on or with respect to which any such offence shall have been committed, is in any dwelling-house, outhouse, garden, yard, croft or other place or places, the justice may grant a warrant to search such dwelling-house, outhouse, garden, yard, croft or other place or places for such property, as in the case of stolen goods; and any person to whom any property shall be offered to be sold pawned or delivered, if he shall have reasonable cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorized, and, if in his power, is required to apprehend, and forthwith to carry before a justice of the peace, the party offering the same, together with such property, to be dealt with according to law.

A Justice, upon good Grounds of Suspicion proved on Oath, may grant a Search Warrant.

Any Person to whom stolen Property is offered to seize the Party.

LVII. And be it enacted, That the prosecution for every offence punishable on summary conviction under this Act shall be commenced within three calendar months after the commission of the offence, and not otherwise, and the evidence of the party aggrieved shall be admitted in proof of the offence.

Limitation as to summary Proceedings. Competent Witnesses.

LVIII. And for the more effectual prosecution of all offences punishable on summary conviction under this Act, be it enacted, That where any person shall be charged, on the oath of a credible witness, before any justice of the peace, with any such offence, the justice may summon the person charged to appear at a time and place to be named in such summons; and if he shall not appear accordingly, then upon proof of the due service of the summons upon such person, by delivering the same to him personally, or by leaving the same at his usual place of abode, the justice may either proceed to hear and determine the case *ex parte*, or may issue his warrant for apprehending such person, and bringing such person before such justice, or some other justice or justices of the peace; or it shall be lawful for the justice before whom the charge shall be made (if he shall so think fit), without any previous summons (unless where otherwise specially directed), to issue such warrant; and the justice or justices before whom the person charged shall appear to be brought shall proceed to hear and determine the case.

Mode of compelling the Appearance of Persons punishable on summary Conviction.

LIX. And with regard to the application of all forfeitures and penalties upon summary convictions under this Act, be it enacted, That every sum of money which shall be forfeited for or as the value of any property stolen or taken, or for or as the amount of any injury done, (such value or amount to be assessed in each case by the convicting justice or justices,) shall be paid to the party aggrieved, if known, except where such party shall have been examined in proof of the offence, and in that case, or where the party aggrieved is unknown, such sum shall be applied in the same manner as a penalty; and every sum which shall be imposed as a penalty by any justice or justices of the peace, whether in addition to such value or amount as aforesaid, or otherwise, shall be paid, under the order of such justice or justices, to the treasurer or other proper officer of the infirmary of the county, city, town, or place wherein such conviction shall take place, for the use of such infirmary, in case there shall be any such infirmary established within or for such county, city, town, or place, and in case there shall not be any such infirmary, then to the treasurer or other proper officer of such other public charity within such county, city, town, or place, as such justice or justices shall by his or their order for that purpose direct: Provided always, that where several persons shall join in the commission of the same offence, and shall upon conviction thereof each be adjudged to forfeit a sum equivalent to the value of the property, or to the amount of the injury done, in every such case no further sum shall be paid to the party aggrieved than that which shall be forfeited by one of such offenders only, and the corresponding sum or sums forfeited by the other offender or offenders shall be applied in the same manner as any penalty imposed by a justice of the peace is herein-before directed to be applied.

Applications of Penalties and Forfeitures on summary Convictions.

Party aggrieved entitled only to the Penalty from One Offender.

LX. And be it further enacted, That it shall be lawful for any justice receive Penalty payable to Treasurer of Infirmary, &c., and pay the same, keeping an Account thereof.

Justice may

No. LVIII. 9 Geo. IV. c. 55.

of the peace by or before whom any conviction shall be made under this Act, to receive any forfeiture or penalty, or any sum of money payable as a penalty under this Act, to the treasurer or officer of any infirmary or public charity, and to give a receipt for the same, for the use of such infirmary or charity, specifying the name or description of such infirmary or charity in such receipt; and such receipt shall be a sufficient discharge to the party by whom such forfeiture or penalty, or sum of money, shall be incurred and paid; and every such justice shall, within fourteen days next after the receipt thereof, pay the amount of every such forfeiture penalty or sum of money to the treasurer or other proper officer of the infirmary or public charity, entitled to the same, and shall take receipts for the same respectively from such treasurer or officer, specifying the time when and the person by whom such forfeiture penalty or sum of money was paid to such justice, for the use of such infirmary or charity; and every such justice shall, by himself or clerk, keep an account, in a book to be provided for that purpose, of the amount of every such forfeiture penalty or sum of money so received by him, specifying the place and time and manner of the adjudication or order whereby such forfeiture penalty or sum of money shall have been adjudged or imposed, and the nature of the offence under this Act for which the same was adjuged or imposed, and the name or names of the person or persons on whom such forfeiture or penalty or sum of money was set or imposed, and the name and description of the treasurer or other proper officer of the infirmary, or the name and description of the public charity, and the officer thereof, to whom such forfeiture penalty or sum of money was paid, according to the directions of this Act, and the time when such payment was made; and every such justice shall, fourteen days previous to the commission day of the spring and summer assizes in every year, transmit to the clerk of the peace of the county county of a city or county of a town within which such forfeiture penalty or sum of money shall have been imposed and made payable, an account in writing stating all the several penalties forfeitures or sums of money which shall have been imposed and made payable, by or before such justice under this Act, at any time between fourteen days before the commencement of the then last preceding assizes, and the day of transmitting such account, and showing which of such forfeitures penalties or sums of money have been received by such justice, and from whom and for what offences, and to whom the same have been respectively paid by such justice, with the dates of the several receipts for the same respectively.

Such Account to be transmitted to the Clerk of the Peace previous to the Spring and Summer Assizes.

Accounts may be inspected by Treasurer of the Infirmary, &c.

LXI. And be it further enacted, That every account so kept by any justice of the peace in pursuance of this Act, and every account transmitted by such justice to the clerk of the peace, shall be produced to the treasurer or other proper officer of the infirmary of the county, city, town, or place, or to the treasurer or other officer of any public charity within such county, city, town, or place where there shall not be such infirmary, at all seasonable times when such treasurer or officer may desire and require to inspect the same, for the purpose of ascertaining whether any and what sums of money may be due and payable to such treasurer or officer under this Act.

Clerk of the Peace shall make Abstract of Accounts so transmitted to him, and have the same posted on the Court House Door during the Assizes, and published in a Newspaper.

LXII. And be it further enacted, That every clerk of the peace to whom any such account or accounts shall be transmitted by any justice or justices of the peace, of the forfeitures penalties or sums of money received under this Act, shall make or cause to be made an abstract of all such accounts in such form as to show in the most distinct manner the name of every justice of the peace by whom, and the several parties from whom, all such penalties forfeitures or sums of money were respectively received, and for what offences the same were payable respectively, and whether such fines penalties or forfeitures were received respectively for the use of the infirmary of the county, city, town, or place, or for the use of any other and what public charity; and such clerk of the peace shall sign such abstract with his name as clerk of the peace, and shall post and affix such abstract, or shall cause the same to be posted and affixed, on the door of the court house or place in which the assizes shall be holden, to be then and there kept posted and affixed during the whole of such assizes; and within fourteen days next after the conclusion of such assizes such clerk of the peace shall cause a true copy of such abstract, signed with his name

as clerk of the peace, to be inserted in some one public newspaper published or circulated within such county county of a city or county of a town.

LXIII. And be it further enacted, That if any justice of the peace who shall receive any such forfeiture or penalty or sum of money, applicable as aforesaid, shall omit or neglect or refuse to give a receipt for the same, or shall omit or neglect or refuse to pay the same to the treasurer or proper officer of any infirmary or public charity entitled to the same as aforesaid, or shall omit or neglect to keep such account as aforesaid, or shall omit or neglect or refuse to trasmit any account as aforesaid to the clerk of the peace, or if any clerk of the peace shall omit or neglect to make or sign, or post, or publish, an abstract of all such accounts as shall be transmitted to him, or to cause the same to be done, in manner required by this Act, or if such accounts, or any of them, shall not contain or refer to all sums of money paid to or received by such justice under this Act, or if any such account or abstract shall in any particular be untrue or deficient, every such justice or clerk of the peace shall, for every such offence, neglect, or omission of such justice or clerk of the peace, respectively forfeit the sum of one hundred pounds, to be recovered, with full costs of suit, by any person who will sue for the same, in any of his Majesty's Courts of Record in *Ireland*, by action of debt, bill, plaint, or information, in which no protection or essoign or wager of law, nor more than one imparlance, shall be allowed.

Penalty on Justices and Clerks of the Peace, for Neglect in such Recepts and Accounts, 100*l*.

LXIV. And be it enacted, That in every case of a summary conviction under this Act, where the sum which shall be forfeited for the value of the property stolen or taken, or for the amount of the injury done, or which shall be imposed as a penalty by any justice or justices, together with the costs, if awarded, (which costs such justice or justices is and are hereby authorized to award, if they shall think fit, in any case of a summary conviction under this Act,) shall not be paid, either immediately after the conviction, or within such period as the justice or justices shall at the time of the conviction appoint, (which he or they is and are hereby authorized to appoint,) it shall be lawful for the convicting justice or justices (unless where otherwise specially directed) to commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the justice or justices, for any term not exceeding two calendar months where the amount of the sum forfeited, or of the penalty imposed, or of both, (as the case may be,) together with the costs, shall not exceed five pounds, and for any term not exceeding four calendar months where the amount of such forfeiture or penalty, or both, as the case may be, together with costs shall exceed five pounds, and shall not exceed ten pounds, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

If a Person summarily convicted shall not pay, &c., the Justice may commit him.

Scale of Imprisonment.

LXV. Provided always, and be it enacted, That where any person shall be summarily convicted before a justice or justices of the peace, of any offence against this Act, and it shall be a first conviction, it shall be lawful for the justice or justices, if he or they shall so think fit, to discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved, for damages and costs, or either of them, as shall be ascertained by such justice or justices.

Justice may discharge certain Offenders on Payment of Recompence.

LXVI. And be it enacted, That it shall be lawful for the lord lieutenant or other chief governor or governors of *Ireland* for the time being, to extend the royal mercy to any person imprisoned by virtue of this Act, although he shall be imprisoned for non-payment of money to some party other than the Crown.

Pardon for Non-payment of Money.

LXVII. And be it enacted, That in case any person convicted of any offence punishable upon summary conviction by virtue of this Act shall have paid the sum adjudged to be paid, together with costs, if awarded under such conviction, or shall have received a remission thereof from the Crown, or shall have suffered the imprisonment awarded for non-payment thereof, or the imprisonment adjudged in the first instance, or shall have

Summary Conviction shall be a Bar to any other Proceeding for the same Cause.

been discharged from his conviction in the manner aforesaid, in every such case he shall be released from all further or other proceedings for the same cause.

Convictions to be drawn in the following Form.

LXVIII. And be it enacted, That the justice or justices before whom any person shall be convicted of any offence against this Act may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall require; *videlicet*,

Form of Conviction.

'BE it remembered, That on the day of in the year of our Lord , at in the county of [*or* city town *or* place, *as the case may be*], *A. O.* is convicted before me *J. P.*, one of his Majesty's justices [*or* before us *J. P.* and *S. L.*, justices] of the peace for the said county [*or* city *&c.*], for that he the said *A. O.* did [*specify the offence, and the time and place when and where the same was committed, as the case may be; and, on a second conviction, state the first conviction*]; and I the said *J. P.* [*or* we the said *J. P.* and *S. L.*] do adjudge the said *A. O.* for his said offence to be imprisoned in the [*or* to to be imprisoned in the and there kept to hard labour] for the space of [*or* to forfeit and pay *here state the penalty actually imposed, or state the penalty, and also the value of the articles stolen embezzled or taken, or the amount of the injury done, as the case may be*], and [*in any case where the costs shall be awarded*] also to pay the sum of for costs, and in default of immediate payment of the said sum [*or* sums] to be imprisoned in the [*or* to be imprisoned in the and there kept to hard labour] for the space of unless the said sum [*or* sums] shall be sooner paid; [*or*, and I [*or* we] order that the said sum [*or* sums shall be paid by the said *A. O.* on or before the day of and I [*or* we] direct that the said sum of [i. e. *the penalty only*], shall be paid to of in the county [*or* city town *or* place, *as the case may be*,] to be by him [*or* them] applied according to the directions of the statute in that case made and provided [*or* that the said sum of [i. e. *the penalty only*] shall be paid to, [*&c. as before*] and that the said sum of [i. e. *the value of the articles stolen, or the amount of the injury done*] shall be paid to *C. D.* [*the party aggrieved, unless he is unknown, or has been examined in proof of the offence, in which case state that fact, and dispose of the whole like the penalty, as before*]; and [*if such justice or justices shall think proper to award the complainant his costs*], I [*or* we] order that the said sum of for costs shall be paid to [*the complainant*]. Given under my hand and seal [*or* our hands and seals], the day and year first above mentioned.'

One Justice may receive original Information, &c. where Two or more Justices are empowered to hear and determine.

LXIX. And be it further enacted, That in all cases where by this Act two or more justices of the peace are authorized and required to hear and determine any complaint, one justice shall be competent to receive the original information or complaint, and to issue the summons or warrant requiring the parties to appear before two or more justices of the peace; and after examination upon oath into the merits of the said complaint, and the adjudication thereupon, by any such two justices, being made, all and every the subsequent proceedings to enforce obedience thereto, or otherwise, whether respecting the penalty, fine, imprisonment, costs, or other matter or thing relating to the offence, may be enforced by either of the said justices, or by any other justice of the peace for the same county, city, town, or place, in such and the like manner as if done by the same two justices who so heard and adjudged the said complaint; and where the original complaint or information shall be made to any justice or justices of the peace different from the justice or justices before whom the same shall be heard and determined, the form of conviction shall be made comformable and according to the fact.

Appeal on Conviction to General or Quarter Sessions.

LXX. And be it enacted, That in all cases where the sum adjudged to

be paid on summary conviction shall exceed five pounds, or the imprisonment adjudged shall exceed one calendar month, or the conviction shall take place before one justice only, any person who shall think himself aggrieved by any such conviction may appeal to the next court of general or quarter sessions (which shall be holden not less than twelve days after the day of such conviction) for the county or place wherein the cause of complaint shall have arisen: Provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such general or quarter sessions, and shall also enter into a recognizance, with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; and upon such notice being given, and such recognizance being entered into, the justice before whom the same shall be entered into shall liberate such person, if in custody; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet; and in case of the dismissal of the appeal, or the affirmance of the conviction, the court shall order and adjudge the offender to be punished according to the conviction, and to pay such costs, if any, as shall be awarded, and shall if necessary, issue process for enforcing such judgment.

No Conviction, nor Adjudication made on Appeal, shall be quashed for Want of Form.

LXXI. And be it enacted, That no such conviction, nor any adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by *certiorari*, or otherwise, into any of his Majesty's superior Courts of Record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Convictions to be returned to the Sessions.

LXXII. And be it enacted, That every justice of the peace before whom any person shall be convicted of any offence against this Act shall transmit the conviction to the next court of general or quarter sessions which shall be holden for the county or place wherein the offence shall have been committed, there to be kept by the proper officer among the records of the court; and upon any indictment or information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence, and the conviction shall be presumed to have been unappealed against, until the contrary be shown.

How far Evidence in future Cases.

Venue in Proceedings against Persons acting under this Act.

Notice of Action.

General Issue, &c.

LXXIII. And for the protection of persons acting in the execution of this Act, be it enacted, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be laid and tried in the county where the fact was committed and shall be commenced within six calendar months after the fact committed and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action the defendant may plead the general issue, or in case of any action of replevin, may avow generally that he took the goods and chattels in question under and by virtue of this Act, and may give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant or avowant; and if a verdict shall pass for the defendant or avowant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant or avowant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs

No. LVIII. 9 Geo. IV. c. 55.

against the defendant or avowant, unless the judge before whom the trial shall be had shall certify his approbation of the action, and of the verdict obtained thereupon.

Admiralty Offences.

LXXIV. And be it enacted, That where any felony or misdemeanor punishable under this Act shall be committed within the jurisdiction of the Admiralty of *Ireland*, the same shall be dealt with, inquired of, tried, and determined in the same manner as any other felony or misdemeanor committed within that jurisdiction.

Act not to extend to England, Wales, or Scotland, except where Offenders having stolen or received Goods in one Part of the United Kingdom shall have them in another.

LXXV Provided always, and be it enacted, That nothing in this Act contained shall extend to *England Wales* or *Scotland*, except as follows; (that is to say,) that if any person having stolen, or otherwise unlawfully taken any chattel, money, valuable security, or other property whatsoever, the stealing or unlawfully taking whereof is made punishable by indictment by any of the provisions of this Act, in any one part of the United Kingdom, shall afterwards have the same property in his possession in any other part of the United Kingdom, he may be dealt with, indicted, tried, and punished for such offence, under this Act, in that part of the United Kingdom where he shall so have such property, in the same manner as if he had actually stolen or unlawfully taken it as aforesaid in that part of the United Kingdom; and if any person in any one part of the United Kingdom shall receive, or shall have any chattel, money, valuable security, or other property whatsoever which shall have been stolen or otherwise unlawfully taken as aforesaid in any other part of the United Kingdom, such person knowing the said property to have been stolen or otherwise unlawfully taken as aforesaid, he may be dealt with, indicted, tried, and punished for such offence in that part of the United Kingdom where he shall so receive or have the said property, in the same manner as if it had been originally stolen or unlawfully taken as aforesaid in that part of the United Kingdom.

PART V.—CLASS VIII.

OFFENCES RELATING TO STOLEN GOODS.*

The statutes relating particularly to the receiving public stores are contained in Class X. infra.

* It is observed in Rede's Essay towards a free examination of the laws of England, Vol. II. p. 75. (apparently with much justice) that "receiving stolen goods, is, perhaps, the most prominent evil in the whole penal code; and that instead of the piece-meal system which has been from time to time adopted, on suggestions only applicable to particular cases, one general law should embrace every object, and remedy every defect in the existing statutes. When (it is added) the receiver is in reality the greatest offender, and even the source from whence most burglaries and robberies have their origin, the receipt of stolen goods should be made an original offence."

Certainly a general law, which provided in three lines—That receiving stolen goods, money bills, &c., knowing them to be stolen, and whether the value did or did not amount to more than 1*s.* should be felony, and that the offenders should be liable to be transported for any term not exceeding fourteen years; or to be punished by whipping, fine, and imprisonment; or any one or more of such punishments, would seem to be much preferable to the present complicated system.

[No. I.] 3 William and Mary, c. 9.—An Act to take away Clergy from some Offenders, and to bring others to Punishment. P.

[Inserted in the last Class.]

No. I. 3 W. & M. c. 9.

Buyers of stolen Goods reputed Accessaries to Felony.

IV. 'AND forasmuch as thieves and robbers are much encouraged to commit such offences, because a great number of persons make 'it their trade and business to deal in the buying of stolen goods:' Be it therefore enacted by the authority aforesaid, That if any person or persons shall buy or receive any goods or chattel (1) that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, he or they shall be taken and deemed an accessary or accessaries to such felony after the fact, and shall incur the same punishment as an accessary or accessaries to the felony after the felony committed.

(1) This does not extend to money (Guy's Case, Leach, Ca. 121.) nor to Bank Notes, Bills, &c., R. *v.* Sadi and Morris, Leach, Ca. 216; E. P. C. ch. 16. s. 143. c. 25. (in the preceding Class) Sec 2 Geo. III. in the notes.

℘. [No. II.] 1 Anne, stat. 2. c. 9.—An Act for punishing of Accessaries to Felonies, and Receivers of Stolen Goods, and to prevent the wilful burning and destroying of Ships.

[Inserted Class VII. ante.]

No. II. 1 Anne, st. 2. c. 9.

Receivers of stolen Goods may be punished, where the principal Felon is not convicted.

II. 'AND forasmuch as buyers and receivers of stolen goods do often-times convey away and conceal the principal felons, so that they 'cannot be convicted of such principal felony, and thereby such buyers and 'receivers have escaped all manner of punishment, which hath greatly en-'couraged the buying and receiving of such stolen goods:' For remedy whereof, be it enacted by the authority aforesaid, That from and after the said twelfth day of *February* one thousand seven hundred and two, it shall and may be lawful to prosecute and punish every such person and persons buying or receiving any stolen goods, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, although the principal felon be not before convicted of the said felony, which shall exempt the offender from being punished as accessary, if the principal shall be afterwards convicted.

℘. [No. III.] 5 Anne, c. 31.—An Act for the Encouraging the Discovery and Apprehending of House-breakers.

[Inserted in the last Class. No. 21.]

No. III. 5 Anne, c. 31.

Buyers or ceivers of stolen Goods, &c., made Accessaries, &c.

V. 'AND forasmuch as the said felons are much encouraged to commit such burglaries and felonies, because a great number of persons 'make it a trade to receive and buy of the said felons the goods so by them 'feloniously taken, and also do make it their business to harbour and con-'ceal the said offenders after the said facts, knowing the said felonies and 'burglaries to have been by them committed:' Be it therefore enacted by the authority aforesaid, That if any person or persons shall receive or buy any goods or chattels that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, or shall receive, harbour, or conceal any burglars, felons, or thieves, knowing them to be so, shall be taken and received as accessary or accessaries to the said felony or felonies; and being of either of the said offences legally convicted, by the testimony of one or more credible witnesses, shall suffer and incur the pains of death as a felon convict.

If principal Felon cannot be taken, Accessary to be tried as for a Misdemeanor.

VI. Provided always, That if any such principal felon cannot be taken, so as to be prosecuted and convicted for any such offence, yet nevertheless it shall and may be lawful to prosecute and punish every such person and persons buying and receiving any goods stolen by any such principal felon, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, or other such corporal punishment as the court shall think fit to inflict, although the principal felon be not before convict of the said felony, which shall exempt the offender from being punished as accessary, if such principal felon shall be afterwards taken and convicted.

℘. [No. IV.] 4 George I. c. 11.—An Act for the further preventing Robbery Burglary and other Felonies; and for the more effectual Transportation of Felons and unlawful Exporters of Wool; and for declaring the Law upon some points relating to Pirates.

No. IV. 4 Geo. I. c. 11.

I. 'WHEREAS it is found by experience, That the punishments inflicted by the laws now in force against the offences of robbery larceny 'and other felonious taking and stealing of money and goods, have not 'proved effectual to deter wicked and evil-disposed persons from being

No. IV.
4 Geo. I.
c. 11.

'guilty of the said crimes: And whereas many offenders to whom royal 'mercy hath been extended, upon condition of transporting themselves to 'the *West Indies*, have often neglected to perform the said condition, but 'returned to their former wickedness, and been at last for new crimes 'brought to a shameful and ignominious death: And whereas in many of 'his Majesty's colonies and plantations in *America*, there is great want of 'servants, who by their labour and industry might be the means of improv- 'ing and making the said colonies and plantations more useful to this 'nation:' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, That where any person or persons have been convicted of any offence within the benefit of clergy, before the twentieth day of *January* one thousand seven hundred and seventeen, and are liable to be whipt or burnt in the hand, or have been ordered to any workhouse, and who shall be therein on the said twentieth day of *January;* as also where any person or persons shall be hereafter convicted of grand or petit larceny, or any felonious stealing or taking of money or goods and chattels, either from the person, or the house of any other, or in any other manner, and who by the law shall be entitled to the benefit of clergy, and liable only to the penalties of burning in the hand or whipping, (except persons convicted for receiving or buying stolen goods, knowing them to be stolen,) it shall and may be lawful for the court before whom they were convicted, or any court held at the same place with the like authority, if they think fit, instead of ordering any such offenders to be burnt in the hand, or whipt, to order and direct, That such offenders, as also such offenders in any workhouse, as aforesaid, shall be sent as soon as conveniently may be, to some of his Majesty's colonies and plantations in *America* for the space of seven years; and that court before whom they were convicted, or any subsequent court held at the same place, with like authority as the former, shall have power to convey, transfer, and make over, such offenders, by order of court, to the use of any person or persons who shall contract for the performance of such transportation, to him or them, and his and their assigns, for such term of seven years; and where any persons have been convicted, or do now stand attainted of any offences whatsoever, for which death by law ought to be inflicted, or where any offenders shall hereafter be convicted of any crimes whatsoever, for which they are by law to be excluded the benefit of clergy, and his Majesty, his heirs or successors, shall be graciously pleased to extend royal mercy to any such offenders, upon the condition of transportation to any part of *America*, and such intention of mercy be signified by one of his Majesty's principal secretaries of state, it shall and may be lawful to and for any court having proper authority, to allow such offenders the benefit of a pardon under the great seal, and to order and direct the like transfer and conveyance to any person or persons (who will contract for the performance of such transportation), and to his and their assigns, of any such before-mentioned offenders, as also of any person or persons convicted of receiving or buying stolen goods, knowing them to be stolen, for the term of fourteen years, in case such condition of transportation be general, or else for such other term or terms as shall be made part of such condition, if any particular time be specified by his Majesty, his heirs and successors, as aforesaid; and such person or persons so contracting, as aforesaid, his or their assigns, by virtue of such order of transfer, as aforesaid, shall have a property and interest in the service of such offenders for such term of years.

This Act is inforced, 6 Geo. 1. c. 23.

Persons convicted of offences within benefit of clergy, except receivers and buyers of stolen goods, shall be sent to the plantations for seven years.

Court to contract for their transportation.

Persons convicted of offences, excluded benefit of clergy, and also receivers and buyers of stolen goods may be transported for 14 years; and persons contracting for their transportation have property in their service.

IV. 'And whereas there are several persons who have secret acquaint- 'ance with felons, and who make it their business to help persons to their 'stolen goods, and by that means gain money from them, which is divided 'between them and the felons, whereby they greatly encourage such 'offenders:' Be it enacted by the authority aforesaid, That wherever any person taketh money or reward, directly or indirectly, under pretence or upon account of helping any person or persons to any stolen goods or chattels, every such person so taking money or reward, as aforesaid, (unless such person doth apprehend, or cause to be apprehended, such felon who

Persons taking rewards for helping to stolen goods, guilty of felony.

No. IV. 4 Geo. I. c. 11.

stole the same, and cause such felon to be brought to his trial for the same, and give evidence against him,) shall be guilty of felony, and suffer the pains and penalties of felony, according to the nature of the felony committed in stealing such goods, and in such and the same manner as if such offender had himself stole such goods and chattels, in the manner, and with such circumstances as the same were stolen (1).

(1) By 6 George, c. 23, a reward of 40*l.* is given for apprehending persons guilty of this offence. This provision was made with a view of reaching the famous Jonathan Wild, who was convicted and executed upon it. In Drinkwater's Case, Leach, Ca. 7. a Question was made, Whether a person could be found guilty under it, the principal Felon not being convicted? But Sir E. H. East suggests, that the real Question must have been, Whether the offender could be found guilty, the principal being dead, so that the other could not have the opportunity of apprehending, &c.

[No. V.] 15 George II. c. 27.—An Act for the more effectual preventing any Cloth or Woollen Goods remaining upon the Rack or Tenters, or any Woollen Yarn or Wool left out to dry, from being stolen or taken away in the Night-time.

No. V. 15 Geo. II. c. 27.

'WHEREAS clothiers and others concerned in the woollen manufacture are under a necessity of letting their cloth and other woollen goods 'remain upon the rack or tenters, as also of suffering their wool to lie exposed in the night-time, in order the better to dry and prepare the same; 'whereby the said goods are more frequently liable to be stolen by wicked 'and evil-designing persons, who are encouraged in their wickedness by the 'difficulty of proving the identity of the goods stolen;' Therefore to secure the property of such clothiers, and others concerned in the woollen manufacture, and to facilitate a discovery of such goods so stolen; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the twenty-ninth day of *September*, one thousand seven hundred and forty-two, in case any cloth or woollen goods remaining upon the rack or tenters, or any woollen yarn or wool left out to dry, shall be stolen or taken away in the night-time; it shall and may be lawful to and for any one or more justice or justices of the peace of the same county or place, upon complaint made to him or them, within ten days after such cloth, woollen goods, woollen yarn, or wool, shall have been so stolen or taken away, by the owner of such cloth, woollen goods, woollen yarn, or wool, by warrant under his or their hands and seals, to authorize and impower any constable, headborough, or other peace officer in the day-time, to enter into and search the houses, out-houses, yards, gardens, or other places belonging to the houses of all and every person and persons whom the owner of such cloth, woollen goods, woollen yarn, or wool, shall, upon his oath, declare to such justice or justices of the peace, he suspects to have stolen, taken away or received the same; and in case such constable, or other officer shall find or discover any cloth, woollen goods, or wool, which he shall from the information of the person making such oath, have reason to suspect to be so stolen, taken away, or received, he shall forthwith apprehend all and every person or persons in whose custody or possession such cloth, woollen goods, or wool shall be found, and carry him, her, or them, before some justice or justices of the peace of the same county, riding, division, liberty, city, or town corporate; and if the said person or persons so suspected, apprehended, and carried before the said justice or justices, shall not then and there give a satisfactory account, how he, she, or they acquired the property or possession of such cloth, woollen goods, woollen yarn or wool, or shall not, within some convenient time to be set by the said justice or justices, produce the party or parties of whom he, she, or they received the same, or some other credible witness to depose upon oath such property or right to the possession of the said cloth,

Search may be made for cloth stolen off tenters, and wool, &c. left to dry.

Woollen goods found, to be accounted for before a justice.

No. V.
15 Geo. II. c. 27.

woollen goods, woollen yarn, or wool (which oath the said justice or justices is and are hereby impowered to administer), that the said person or persons so suspected, and not giving such satisfactory account, nor producing any such witness upon oath to testify as aforesaid, shall be deemed and adjudged as convicted of the said offence of stealing or taking away the said cloth, woollen goods, woollen yarn, or wool, and shall for the first offence forfeit and pay to the owner of such cloth, woollen goods, woollen yarn, or wool, treble the value thereof; and in default of payment thereof, in the time appointed by such justice or justices for the payment thereof, such justice or justices of the peace shall issue forth his or their warrant to levy the same by distress and sale of the offender's goods, returning the overplus, if any be; and in default of such distress, shall commit the offender or offenders to the common gaol of the county, city, or place where the said offender or offenders shall be apprehended, there to remain for the space of three months without bail or mainprize, or until he, she, or they pay the same; and if such person or persons shall again commit the said offence, and be thereof convicted as before, then they and every of them so offending the second time, and being thereof so convicted, shall, over and above the forfeiture of treble the value of the cloth, woollen goods, woollen yarn, or wool so found, to be recovered and levied as aforesaid, be committed to the common gaol as aforesaid, there to remain for the space of six months without bail or mainprize; and if such person or persons shall again commit the said offence, and be thereof convicted as before, the justice or justices of the peace before whom such person or persons shall be so convicted as aforesaid, shall forthwith issue his or their warrant to commit the said offender or offenders to the common gaol as aforesaid, there to remain till the next assizes or great session, where the said offender or offenders shall be tried for the said offence; and in case such offender or offenders shall not by producing the party or parties of whom he, she, or they acquired the property or possession of such cloth, woollen goods, woollen yarn, or wool, or otherwise prove to the satisfaction of the jury, that he, she, or they lawfully obtained the property or possession of the same, he, she, or they shall be adjudged to be guilty of felony, and suffer transportation for the space of seven years, and shall be liable to the same punishment, and to the like methods of prosecution, trial, and conviction for returning from such transportation, as other felons transported are liable unto by virtue of the laws now in force.

Offender to forfeit treble value, by distress and sale;

second offence six months' imprisonment.

Transportation for third offence.

II. Provided always, and be it further enacted by the authority aforesaid, That if any person or persons so suspected and apprehended as aforesaid, shall find him, her or themselves aggrieved by any judgment or determination which shall be given or made by any justice or justices of the peace by virtue of this Act, it shall and may be lawful to and for such person or persons so aggrieved (unless he, she or they have twice before been convicted of the same offence), to appeal unto the justices of the peace in their general quarter sessions, which shall happen to be held next after such judgment or determination given or made, who are hereby authorized and empowered to give such relief, and make such order therein as to them shall seem meet; and such judgment, order, or determination as shall be by them made upon the said appeal, shall be final to all intents and purposes whatsoever.

Appeal.

III. Provided also, That this Act shall not extend to alter or repeal any law now in force, for the punishment of any person or persons stealing or receiving such cloth, woollen goods, woollen yarn, or wool, except in such cases where the proof is laid upon the offender or offenders as aforesaid; any thing herein contained to the contrary notwithstanding.

Proviso.

[No. VI.] 25 George II. c. 36.—An Act for the better preventing Thefts and Robberies, and for regulating Places of Publick Entertainment, and punishing Persons keeping disorderly Houses. *

* This Act at length infrà.

No. VI. 25 Geo. II. c. 36.

'WHEREAS the advertising a reward with no questions asked, for the 'return of things which have been lost or stolen, is one great cause 'and encouragement of thefts and robberies:' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of *June*, one thousand seven hundred and fifty-two, any person publickly advertising a reward with no questions asked, for the return of things which have been stolen or lost, or making use of any words in such public advertisement, purporting that such reward shall be given or paid without seizing or making enquiry after the person producing such thing so stolen or lost, or promising or offering, in any such publick advertisement, to return to any pawnbroker, or other person, who may have bought or advanced money by way of loan upon such thing so stolen or lost the money so paid or advanced, or any other sum of money or reward for the return of such thing; and any person printing or publishing such advertisement, shall respectively forfeit the sum of fifty pounds for every such offence, to any person who will sue for the same.

Person advertising reward for return of things stolen or lost, &c.

and the printer to forfeit 50*l.*

[No. VII.] 29 George II. c. 30.—An Act for more effectually discouraging and preventing the stealing, and the buying and receiving of stolen Lead, Iron, Copper, Brass, Bell-metal and Solder, and for more effectually bringing the Offenders to Justice.

No. VII. 29 Geo. II. c. 30.

'WHEREAS the pernicious practice of stealing lead, iron, copper, brass, 'bell-metal and solder fixed to, or lying or being in or upon houses, 'outhouses, mills, warehouses, workshops and other buildings, areas, vaults, 'yards, gardens, orchards or other places; and also the stealing of such 'materials from ships, barges, lighters, boats and other vessels and craft, 'upon navigable rivers, in ports of entry or discharge, creeks and docks 'belonging thereto, and also from off wharfs, keys and other places, is be'come a great and notorious evil, by reason of the difficulty in apprehend'ing and convicting the thieves, and the still greater difficulty of discover'ing and convicting the buyers or receivers thereof; which buyers or re'ceivers are the principal cause of the commission of such thefts; and in 'regard that the said offences are committed in such close and clandestine 'manner, that there can be no witness or witnesses to the same, but such 'who is or are partakers of the offence: And whereas if the buyers and re'ceivers of lead, iron, copper, brass, bell-metal or solder, knowing or 'having reasonable cause to suspect the same to be stolen or unlawfully 'come by, were made original offenders, and punishable independent of 'the apprehension and conviction of the thief; and if the apprehending, 'prosecuting and convicting the offenders in both kinds were rendered 'more easy and speedy, it might more effectually tend to the discovery 'and suppression of the said offences:' For remedy whereof, be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of *October* one thousand seven hundred and fifty-six, every person who shall buy or receive any lead, iron, copper, brass, bell-metal or solder (1), knowing the same to be unlawfully come by, or shall privately

Buyers or receivers knowing, &c. transported for 14 years.

(1) In Rex *v.* Stott, E. P. C. ch. 16. § 144. a doubt was entertained, Whether the Act (or the exception of the same enumerated articles in stat. 22 Geo. III. post) only extended to the articles in their raw state, as contradistinguished from wrought goods? and the case of Rex *v.* Scott, before Serjeant Adair, as Chief Justice of Chester, was cited, as having so decided, (which certainly was the case within my own knowledge). I remember, in the discussion in the King *v.* Stott, that the Court leaned very much to the objection, (which was founded upon the exception in stat. 22 Geo. III.) but in consequence of an intimation, that in a proceeding under the present statute, the sentence of transportation for fourteen years, was a specific punishment, the defendant's counsel waved any further prosecution of the Writ of Error. Sir E. H. East, ub. supra, states strong reasons against confining the description to the several metals in an unwrought state.

No. VII. 29 Geo. II. c. 30.

buy or receive any stolen lead, iron, copper, brass, bell-metal or solder, by suffering any door, window or shutter to be left open or unfastened between sun-setting and sun-rising for that purpose, or shall buy or receive the same, or any of them, at any time in any clandestine manner from any person or persons whatsoever, shall, being thereof convicted by due course of law, although the principal felon or felons has not or have not been convicted of stealing the same, be transported for fourteen years to any of his Majesty's colonies or plantations in *America*, according to the laws in force for the transportation of felons.

Where cause of suspicion, justice to issue search warrant.

II. And be it enacted by the authority aforesaid, That it shall and may be lawful for any one justice of the peace, upon complaint made to him upon oath by any credible persons, that there is cause to suspect stolen lead, iron, copper, brass, bell-metal or solder, is concealed in any dwelling-house, out-house, yard, garden or other place or places, by warrant under his hand and seal, to cause every such dwelling-house, out-house, yard, garden and place to be searched in the day-time; and if any lead, iron, copper, brass, bell-metal or solder, suspected to be stolen, shall be found therein, to cause the same, and the person or persons in whose house, out-house, yard, garden or other place the same shall be found, to be brought before any two or more justices of the peace for the same county, city, riding, division, liberty or place; and if the said person or persons shall not give an account, to the satisfaction of such justices, how he, she, or they came by the same; or shall not, within some convenient time to be set by the said justices, produce the party or parties of or from whom he, she, or they bought or received such stolen lead, iron, copper, brass, bell-metal or solder, that then the said person or persons so offending shall be deemed and adjudged guilty of a misdemeanor.

Suspected persons, in the night-time, may be apprehended, &c.

III. And be it further enacted by the authority aforesaid, That every constable, headborough or tithingman, in every county, city, town corporate, or other place where they shall be officers, and every beadle within his ward, parish or district, and every watchman, during such time only as he is on his duty, shall and may apprehend, or cause to be apprehended, all and every person or persons who may reasonably be suspected of having or carrying, or any ways conveying, at any time after sun-setting, and before sun-rising, any lead, iron, copper, brass, bell-metal or solder, suspected to be stolen or unlawfully come by; and the same, together with such person or persons, as soon as conveniently may be, to convey or carry before any two or more justices of the peace for the county, city, riding, division, liberty or place aforesaid; and if the person or persons so apprehended conveying any such lead, iron, copper, brass, bell-metal or solder, shall not produce the party or parties from whom he, she, or they bought or received the same, or some other credible witness to depose upon oath the sale or delivery of the said lead, iron, copper, brass, bell-metal or solder (which oath any such justices are hereby impowered to administer) or shall not give an account, to the satisfaction of any two or more of such justices, how he, she, or they came by the same, that then the said person or persons so apprehended shall be deemed and adjudged guilty of a misdemeanor.

In which cases materials to be deposited with the churchwardens, &c.

IV. And be it enacted by the authority aforesaid, That where any person or persons shall be convicted of either of the misdemeanors aforesaid, it shall and may be lawful for any two or more of such justices to cause such lead, iron, copper, brass, bell-metal or solder, to be deposited in the hands of the churchwardens and overseers of the poor of the place where such lead, iron, copper, brass, bell-metal or solder were found, or in any other convenient place, for any time not exceeding thirty days; and in the mean time to order the said churchwardens and overseers of the poor, or one of them, in all and every of the parishes within the bills of mortality, to insert an advertisement in some publick paper, and in every other parish or place to cause notice to be given by some publick cryer, and by fixing on the church or chapel door notice describing such lead, iron, copper, brass, bell-metal or solder, and where the same shall be so deposited, to the end that persons having lost such lead, iron, copper, brass, bell-metal or solder may come and claim the same, or any reputable person on their

No. VII. 29 Geo. II. c. 30.

behalf; and in case any person or persons can prove their property to the said lead, iron, copper, brass, bell-metal or solder, upon oath, to the satisfaction of any two or more of such justices of the peace for such county, city, riding, division, liberty, or place, that then such justices shall order restitution of such lead, iron, copper, brass, bell-metal or solder to the owner or owners thereof, after paying the reasonable charges of removing, depositing and giving publick notice of the same; and if at the end of the said thirty days no person or persons shall come and prove his, her, or their property, nor any reputable person on his or their behalf, to such lead, iron, copper, brass, bell-metal or solder, the same to be sold for the best price that can reasonably be had; and after deducting the charges as aforesaid, one moiety of the money arising from such sale to be given to the person or persons who shall apprehend the party or parties guilty of the misdemeanors afore-mentioned, or either of them; and the other moiety thereof to the poor of the parish where such offence shall be committed (if it be known where) or else where such conviction shall be made.

Owner proving his property, to have them.

Persons to whom any such materials shall be brought, may in suspected case stop, &c.

V. And be it further enacted by the authority aforesaid, That every person to whom any lead, iron, copper, brass, bell-metal or solder shall be brought and offered to be sold, pawned or delivered, shall and is hereby impowered and required (there being reasonable cause to suspect that such lead, iron, copper, brass, bell-metal or solder was stolen or unlawfully come by) to apprehend, secure and carry before a justice of the peace for the county, city, riding, division, liberty or place where the same shall be so brought or offered (having it in his or her power so to do) the person or persons so bringing or offering the same, together with such lead, iron, copper, brass, bell-metal or solder; and such person or persons so apprehended shall be dealt with, and such lead, iron, copper, brass, bell-metal or solder, shall be deposited and disposed of, in the same manner as if he, she, or they had been apprehended by the constable, headborough, tythingman, beadle or watchman as aforesaid; and if it shall appear upon the oath of any person, notwithstanding such person or persons was or were concerned in the stealing the same, if corroborated with other credible circumstances, to the satisfaction of two or more justices of the peace for the county, city, riding, division, liberty or place where the same shall be so brought or offered as aforesaid, that there was reasonable cause to suspect such lead, iron, copper, brass, bell-metal or solder was stolen or unlawfully come by, and that the person or persons to whom such lead, iron, copper, brass, bell-metal or solder was so brought or offered, did not (having it in his, her, or their power, so to do) apprehend, secure and carry before a justice of the peace as aforesaid, the person or persons who so brought or offered the same, that then the person or persons to whom such lead, iron, copper, brass, bell-metal or solder was so brought or offered, shall be deemed and adjudged guilty of a misdemeanor.

Persons convicted of a misdemeanor, &c. and not accounting satisfactorily for the same, to forfeit, &c.

VI. And be it further enacted, That every person deemed and adjudged guilty of a misdemeanor, in having in his, her, or their possession, any lead, iron, copper, brass, bell-metal or solder, suspected to be stolen, or unlawfully come by, and not producing the party or parties of whom he, she, or they bought or received the same, nor giving a satisfactory account how he, she, or they came by the same, or in having, carrying or conveying of lead, iron, copper, brass, bell-metal or solder, suspected to be stolen or unlawfully come by, and not producing the party or parties from whom he, she, or they bought or received the same, nor any credible witness to depose upon oath the sale or delivery thereof, nor giving a satisfactory account how he, she, or they came by the same (as the case shall be) shall, for every such misdemeanor, forfeit for the first offence the sum of forty shillings, and for the second offence the sum of four pounds, and for every subsequent offence the sum of six pounds; and that every person deemed and adjudged guilty of the misdemeanor of neglecting to apprehend, secure and carry before a justice of the peace, the person or persons (having it in his, her, or their power so to do) who brought or offered to sell, pawn or deliver any lead, iron, copper, brass, bell-metal or solder (as the case shall be) suspected to be stolen or unlawfully come by, shall; for every such misdemeanor, forfeit for the first offence the sum of twenty shillings, and for

the second offence the sum of forty shillings, and for every subsequent offence the sum of four pounds; all which said respective forfeitures shall and may be levied by distress and sale of the goods and chattels of every such offender (rendering to him or her the overplus, after charges of the said distress and sale deducted) by warrant under the hands and seals of any two or more of such justices, before whom such offender was deemed and adjudged guilty; which forfeiture shall be paid, one moiety thereof to the informer, and the other moiety thereof to the overseers of the poor, for the use of the poor of the parish or place where such offence was committed (if it be known where) or else where such conviction shall be made; and if no sufficient distress shall be found, whereupon to levy the said respective forfeitures, then the said justices shall and may commit every such offender; so respectively deemed and adjudged guilty as aforesaid, to the common gaol or other prison, or house of correction, within their jurisdiction, without bail or mainprize, for the space of one month for the first offence, and for the second offence for the space of two months, and for every subsequent offence until such offender shall be discharged by order of the Court of general or quarter sessions.

Forfeitures how levied, &c.

For want of distress, offender to be committed.

VII. And be it further enacted, That every conviction of any offender, in any of the aforesaid misdemeanors, shall be certified by two or more of the justices of the peace, making the same, to the next general or quarter sessions of the peace, to be filed and entered amongst the records of the said sessions; and that such conviction shall and may be drawn up on parchment, and certified in the following form of words (as the case shall happen) or in any other form of words to the like effect, *mutatis mutandis*; that is to say,

Convictions to be certified to the quarter sessions,

in the form following.

'*Middlesex*, } BE it remembered, That on the day of in
' to wit, } the year *A. B.* was convicted before us
' of the justices of the peace for the county, city, riding, division,
' liberty or place aforesaid (as the case shall be) of a misdemeanor,
' in having in his, her, or their possession, lead, iron, copper, brass,
' bell-metal or solder, suspected to be stolen or unlawfully come
' by, and not producing the party or parties of whom he, she, or
' they bought or received the same, nor giving a satisfactory account
' how he, she, or they came by the same, or in having, carrying, or
' conveying of lead, iron, copper, brass, bell-metal or solder, sus-
' pected to be stolen or unlawfully come by, and not producing the
' party or parties from whom he, she, or they bought or received
' the same, nor any credible witness to depose upon oath the sale
' or delivery thereof, or not giving a satisfactory account how he,
' she, or they came by the same, or of neglecting to apprehend and
' secure the person or persons who brought and offered to pawn,
' sell or deliver lead, iron, copper, brass, bell-metal or solder, sus-
' pected to be stolen or unlawfully come by (as the case shall be).
' Given under our hands and seals the day and
' year aforesaid.'

Which said conviction, in the same or the like form of words, shall be good and effectual in law to all intents and purposes, and shall not be quashed, set aside, or adjudged void or insufficient for want of any other form or words whatsoever, nor be liable to be removed by *certiorari* into his Majesty's Court of *King's Bench*, but shall be deemed and taken to be final to all intents and purposes whatsoever.

Conviction not to be quashed, or removed.

VIII. And be it further enacted by the authority aforesaid, That if any person being out of prison, shall, after the said first day of *October* one thousand seven hundred and fifty-six, commit any felony, by stealing any lead, iron, copper, brass, bell-metal or solder, and afterwards discover two or more persons who shall buy or receive any stolen lead, iron, copper, brass, bell-metal or solder, after the said first day of *October* one thousand seven hundred and fifty-six, knowing the same to be stolen, so as two or more of the persons discovered shall be convicted of such buying or receiving, he, she or they so discovering shall have and be intitled to the gracious pardon of his Majesty, his heirs and successors, for all such felonies by him or her

Felon convicting the buyers or receivers, intitled to his pardon;

No. VII. 29 Geo. II. c. 30.

committed, at any time or times before such discovery made, which pardon shall be likewise a bar to any appeal brought for such felony.

and convicting any of a misdemeanor, in not apprehending, &c. is discharged from prosecution for such felony.

IX. And be it further enacted by the authority aforesaid, That if any person shall be concerned in the stealing any lead, iron, copper, brass, bell-metal or solder, and shall afterwards, being out of prison, discover any person to whom he, she, or they shall have, after the first day of *October*, offered to sell, pawn or deliver any stolen lead, iron, copper, brass, bell-metal or solder, so as such person be convicted of the misdemeanor of not apprehending, securing and carrying him, her, or them before a justice as aforesaid, that then the person making such discovery shall not be liable to be prosecuted for stealing the lead, iron, copper, brass, bell-metal or solder, so offered as aforesaid.

Limitation of actions.

X. And be it further enacted by the authority aforesaid, That if any action or suit shall be commenced or brought against any justice or justices of the peace, or other officer or person whatsoever, for doing or causing to be done any thing in pursuance of this Act, concerning the said offences, the same shall be commenced or brought within six months after such cause of action has accrued; and the defendant in such case may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff become nonsuited, or discontinue his action, the defendant shall have treble costs.

General issue.

Treble costs.

Former laws not vacated, nor offenders liable to double punishment.

XI. Provided always, That nothing herein contained shall extend, or be construed to extend, to repeal any former law now in being, for the punishment of such offenders; and provided also, that such offender, after having been punished by this Act, shall not for the same offence be afterwards punished or be liable to be punished by any such former law.

P.

[No. VIII.] 2 George III. c. 28.—An Act to prevent the committing of Thefts and Frauds by Persons navigating Bum-Boats, and other Boats, upon the River *Thames* *.

No. VIII. 2 Geo. III. c. 28.

XII. AND be it further enacted by the authority aforesaid, That from and after the twenty-fourth day of *June* one thousand seven hundred and sixty-two, every person who shall buy or receive any part of the cargo or loading of, or any goods, stores or things, of or belonging to any ship or vessel in the said river, knowing the same to be stolen or unlawfully come by; or shall privately buy or receive any such goods, stores or things, or any part of such cargo or loading, by suffering any door, window or shutter to be left open or unfastened between sun-setting and sun-rising for that purpose, or shall buy or receive the same, or any of them, at any time, in any clandestine manner, from any person or persons whomsoever, shall, being thereof convicted by due course of law (although the principal felon or felons, offender or offenders, has or have not been convicted of stealing or unlawfully procuring the same) be transported for fourteen years to any of his Majesty's colonies or plantations in *America*, according to the laws in force for the transportation of felons.

Persons convicted of knowingly buying or receiving stolen goods from vessels in the river; or of privately buying or receiving at any time any such goods clandestinely, or by suffering any door, window, or shutter at night to be left open or unfastened for that purpose, shall be transported for 14 years.

* See 39 and 40 Geo. III. c. 87. infrà.

[No. IX.] 10 George III. c. 48.—An Act for making the Receiving of stolen Jewels, and Gold and Silver Plate, in the Case of Burglary and Highway Robbery, more penal.

No. IX. 10 Geo. III. c. 48.

'WHEREAS the facility with which stolen jewels, and gold and silver plate, are disposed of, is one principal cause of the frequent commission of burglaries and highway robberies; and the present laws against the receiving of stolen goods are found insufficient to deter persons from that practice:' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with

the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That every person, who from and after the first day of *June* one thousand seven hundred and seventy, shall buy or receive any stolen jewel or jewels, or any stolen gold or silver plate, watch or watches, knowing the same to have been stolen, shall, in all cases where such jewel or jewels (1), or gold or silver plate (1), shall have been feloniously stolen, accompanied with a burglary actually committed in the stealing the same, or shall have been feloniously taken by a robbery on the highway, shall be triable as well before conviction of the principal felon in such felony and burglary, or robbery, whether he shall be in or out of custody, as after his conviction. And if any person, so buying or receiving such jewel or jewels, or gold or silver plate, shall be convicted thereof, he shall be adjudged guilty of felony, and be transported to some of his Majesty's plantations in *America* for the space of fourteen years, according to the laws in force for transportation of felons.

No. IX.
10 Geo. III. c. 48.

After 1 June, 1770, persons receiving jewels, gold or silver plate, or watches, knowing them to be stolen, triable as well before as after conviction of principal felons; and on conviction to be transported for 14 years.

(1) In Rex v. Moses, E. P. C. ch. 16. § 146, the judges differed as to a gold watch being plate; but agreed that cornelian seals, set in gold, were jewels within the Act.

[No. X.] 13 George III. c. 31.—An Act for the more effectual Execution of the Criminal Laws in the two Parts of the United Kingdom *.

V. AND be it further enacted by the authority aforesaid, That if any person or persons, in either part of the united kingdom, shall hereafter receive or have any money, cattle, goods, or other effects, stolen, or otherwise feloniously taken, in the other part of the united kingdom, knowing the same to be stolen, or otherwise feloniously taken, every such person or persons shall be liable to be indicted, tried, and punished for such offence, in that part of the united kingdom where he, she, or they shall so receive or have the said money, cattle, goods, or other effects, in the same manner, to all intents and purposes, as if the said money, cattle, goods, or other effects, had been originally stolen, or otherwise feloniously taken, in that part of the united kingdom.

No. X.
13 Geo. III. c. 31.

Receivers of money, &c. in either part of the kingdom, knowing the same to be stolen, also liable to be punished.

* This at length infrà.

[No. XI.] 21 George III. c. 69.—An Act to explain and amend an Act, made in the twenty-ninth year of the Reign of his late Majesty King *George* the Second, intituled, *An Act for more effectually discouraging and preventing the stealing, and the buying and receiving of stolen lead, iron, copper, brass, bell-metal, and solder; and for more effectually bringing the offenders to justice.*

'WHEREAS by an Act, passed in the twenty-ninth year of the reign of his late Majesty King *George* the Second, intituled, *An Act for more effectually discouraging and preventing the stealing and buying of stolen lead, iron, copper, brass, bell-metal, and solder; and for more effectually bringing the offenders to justice,* divers provisions were made for punishing the receivers and buyers of lead, iron, copper, brass, bell-metal, and solder, knowing the same to be stolen: And whereas the said Act has been found by experience to tend to good and useful purposes, and to prevent many felonies being committed in respect to the several articles therein mentioned; but the metal called *pewter* not being mentioned or included in the said Act, evil-disposed persons have taken advantage thereof, and the stealing of pewter pots, and other pewter, and the buying and receiving such pewter pots, and other pewter, knowing the same to be stolen, is become a great and notorious evil:' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual

No. XI.
21 Geo. III. c. 69.

Preamble. Recital of 29 Geo. II. c. 30.

No. XI. 21 Geo. III. c. 69.

From Aug. 1, 1781, every person who shall buy or receive any pewter pot, or other pewter, knowing the same to be stolen, &c. shall, on conviction, be transported as a felon for seven years, &c.

and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the first day of *August*, one thousand seven hundred and eighty-one, every person who shall buy or receive any pewter pot, or other vessel, or any pewter in any form or shape whatever, knowing the same to be stolen, or unlawfully come by; or shall privately buy or receive any stolen pewter, by suffering any door, window, or shutter, to be left open or unfastened, between sun-setting and sun-rising, for that purpose; or shall buy or receive the same at any time, in any clandestine manner, from any person or persons whatsoever; shall, being thereof convicted by due course of law, although the principal felon or felons has not or have not been convicted of stealing the same, be transported, in like manner as other felons are directed to be transported by the laws and statutes of this realm, for any time not exceeding seven years, or be kept and detained in prison, and therein kept to hard labour, for any time not exceeding three years, nor less than one year; and within that time (if such court shall think fitting), such offender or offenders shall be once or oftener, but not more than three times, publickly whipped.

[No. XII.] 22 George III. c. 58.—An Act for the more easy discovery and effectual punishment of Buyers and Receivers of Stolen Goods.

No. XII. 22 Geo. III. c. 58.

Preamble.

Every person buying or receiving stolen goods shall be deemed guilty of a misdemeanor, and prosecuted accordingly.

'WHEREAS the pernicious practices of buying and receiving stolen goods are become a great evil, by reason of the difficulty of discovering the persons guilty of the same, and of the insufficiency of the laws now in being for the punishment of such offenders, in certain cases:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of *August*, one thousand seven hundred and eighty-two, in all cases whatsoever where any goods or chattels (except lead, iron, copper, brass, bell-metal, and solder (1),) shall have been feloniously taken or stolen, whether the offence of the person or persons so taking or stealing the same, shall amount to grand larceny or some greater offence, or to petit larceny only, (except where the person or persons actually committing the felony shall have been already convicted of grand larceny (2), or of some greater offence,) every person who shall buy or receive any such goods and chattels, knowing the same to have been so taken or stolen, shall be held and deemed guilty of, and may be prosecuted for, a misdemeanor, and shall be punished by fine, imprisonment, or whipping, as the court of quarter sessions, who are hereby empowered to try such offender, or as any other court before which he, she, or they shall be tried, shall think fit to inflict; although the principal felon or felons be not before convicted of the said felony, and whether he, she, or they is or are amenable to justice or not; any law or statute to the contrary notwithstanding: And in cases where the felony actually committed shall amount to grand larceny, or to some greater offence, and where the person or persons actually committing such felony shall not be before convicted, such offender or offenders shall be exempted from being punished as accessary or accessaries, if such principal felon or felons shall be afterwards convicted.

Justices may grant search warrants.

II. And be it further enacted by the authority aforesaid, That it shall and may be lawful for any one justice of the peace, upon complaint made before him upon oath, that there is reason to suspect that stolen goods are knowingly concealed in any dwelling-house, out-house, garden, yard, croft, or other place or places, by warrant under his hand and seal, to cause every such dwelling-house, out-house, garden, yard, croft, or other place

(1) See note to 29 Geo. II. c. 30, suprà.

(2) It is not necessary to allege in the indictment, that the persons committing the felony had not been convicted of great larceny, &c. which is matter of difference, that, if proved by the defendant, would entitle him to an acquittal; R. v. Baxter, 5 T. R. 83.

No. XII.
22 Geo. III. c. 58.

or places, to be searched in the day time; and the person or persons knowingly concealing the said stolen goods, or any part thereof, or in whose custody the same, or any part thereof, shall be found, he, she, or they being privy thereto, shall be deemed and held guilty of a misdemeanor, and shall and may be brought before any justice of the peace for the county, city, town corporate, riding, division, liberty, or place, and made amenable to answer the same, by like warrant of any such justice, and being thereof convicted by due course of law, shall be punishable in the manner aforesaid.

Punishment of persons in whose custody they are found.

III. And be it further enacted by the authority aforesaid, That every constable, headborough, or tithing-man, in every county, city, town corporate, riding, division, liberty, or other place where there shall be officers, and every beadle within his ward, parish, or district, and every watchman, during such time only as he is on duty, shall and may apprehend, or cause to be apprehended, all and every person and persons, who may reasonably be suspected of having, or carrying, or any ways conveying, at any time after sun-setting, and before sun-rising, any goods or chattels suspected to be stolen, and the same, together with such person or persons, as soon as conveniently may be, to convey or carry before any justice of the peace for the county, city, town corporate, riding, division, liberty, or place aforesaid, to be dealt with according to law; and such person and persons, so carrying or conveying such goods or chattels, knowing the same to have been stolen, and being thereof convicted by due course of law, shall be deemed and held to be guilty of a misdemeanor, and, on conviction as aforesaid, shall be imprisoned for any time not exceeding six calendar months, nor less than three calendar months.

Constables, &c. may apprehend persons suspected, &c.

IV. And be it further enacted by the authority aforesaid, That every person to whom any goods or chattels, which have been feloniously stolen or taken, shall be brought and offered to be sold, pawned, or delivered, shall, and is hereby empowered and required (there being reasonable cause to suspect that such goods or chattels were stolen) to apprehend, secure, and carry before a justice of the peace for the county, city, town corporate, riding, division, liberty, or place, where the same goods and chattels shall be so brought or offered to be sold, pawned, or delivered, (having it in his or her power so to do,) the person and persons bringing or offering the same.

Persons offering stolen goods to be pawned or sold, shall be taken before a justice.

V. And be it further enacted by the authority aforesaid, That if any person or persons, being out of custody or in custody, if under the age of fifteen years, upon any charge of felony within benefit of clergy, shall have committed any felony after the first day of *August*, one thousand seven hundred and eighty-two, and shall afterwards discover two or more persons who shall have bought or received any goods or chattels, which shall have been feloniously stolen or taken from any other person or persons, after the said first day of *August*, one thousand seven hundred and eighty-two, knowing the same to be stolen, so as two or more of the persons discovered shall be convicted of such buying or receiving, he, she, or they so discovering, shall have and be entitled to the gracious pardon of his Majesty, his heirs and successors, for all such felonies by him or her committed at any time or times before such discovery made, which pardon shall be likewise a bar to any appeal brought for such felony.

Persons under 15 years of age, charged with felony, how entitled to his Majesty's pardon.

VI. Provided always, That nothing herein contained shall extend to repeal any former law now in being for the punishment of such offenders; and provided also, that such offender, after having been prosecuted and convicted under this Act, shall not, for the same offence, be afterwards punished, or liable to be punished by any such former law.

This Act not to repeal any former law for punishing such offenders.

[No. XIII.] 39 and 40 George III. c. 87.—An Act for the more effectual prevention of Depredations on the River *Thames*, and in its vicinity; and to amend an Act, made in the second year of the reign of his present Majesty, to prevent the committing of Thefts and Frauds by persons

39, 40 Geo. III. c. 87.

navigating Bum Boats, and other Boats, upon the River *Thames.* [28*th July* 1800.]

No. XIII. 39 and 40 Geo. III. c. 87.

Persons guilty of offences punishable by 2 G. III. c. 28. § 12. by transportation for 14 years, shall plead to indictments without having time to traverse.

'XXII. AND whereas, in and by the said last-mentioned Act, persons guilty of certain offences are punishable by transportation for fourteen years, but the said offences not being by the said Act declared to be felony, the trial thereof may in all cases be put off, by means of a traverse, to the next sessions after the finding of the bill of indictment for the same, and the offender be in the mean time liberated, on being admitted to bail, whereby justice has been in many instances eluded:' For remedy thereof, be it further enacted, That from and after the passing of this Act, whenever any indictment shall be found against any person or persons for the said offences, or any of them, the person or persons so indicted shall plead to the same indictment without having time to traverse the same, as is usual in cases of misdemeanors.

PART V.—CLASS IX.

EMBEZZLEMENT BY AGENTS AND PUBLIC OFFICERS.

[No. I.] 50 George III. c. 59.—An Act for the more effectually preventing the Embezzlement of Money or Securities for Money belonging to the public, by any Collector, Receiver, or other person entrusted with the receipt, care, or management thereof.—[9*th June* 1810.]

No. I. 50 Geo. III. c. 59.

'WHEREAS it is most expedient that due provision should be made more effectually to prevent the embezzlement of money, or securities for money belonging to the publick, by any collector, receiver, or other officer entrusted with the receipt, custody, or management thereof:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons to whom any money or securities for money shall be issued for publick services, shall, from and after the passing of this Act, embezzle such money, or in any manner fraudulently apply the same to his own use or benefit, or for any purpose whatever except for publick services, every such person so offending, and being thereof duly convicted according to law, in any part of the united kingdom, shall be adjudged guilty of a misdemeanor, and shall be sentenced to be transported beyond the sea, or to receive such other punishment as may by law be inflicted on persons guilty of misdemeanors, and as the court before which such offenders may be tried and convicted shall adjudge.

Embezzling money issued for public services.

Misdemeanor, &c.

II. And be it further enacted, That if any such officer, collector, or receiver so entrusted with the receipt, custody, or management of any part of the public revenues, shall knowingly furnish false statements or returns of the sums of money collected by him or entrusted to his care, or of the balances of money in his hands or under his controul, such officer, collector, or receiver so offending, and being thereof convicted, shall be adjudged guilty of a misdemeanor, and shall be adjudged to suffer the punishment of fine and imprisonment, at the discretion of the court, and be rendered for ever incapable of holding or enjoying any office under the crown.

Officers giving in false statements of money entrusted to their care.

Misdemeanor, &c.

3

[No. II.] 52 George III. c. 63.—An Act for more effectually preventing the Embezzlement of Securities for Money and other effects, left or deposited for safe custody, or other special purpose, in the hands of Bankers, Merchants, Brokers, Attornies, or other Agents.—[*9th June* 1812.]

No. II.
52 Geo. III. c. 63.

'WHEREAS it is expedient that due provision should be made to prevent the embezzlement of government and other securities for money, plate, jewels, and other personal effects, deposited for safe custody, or for any special purpose, with bankers, merchants, brokers, attornies, and other agents, entrusted by their customers and employers:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons with whom (as banker or bankers, merchant or merchants, broker or brokers, attorney or attornies, or agent or agents of any description whatsoever) any ordnance debenture, exchequer bill, navy, victualling, or transport bill, or other bill, warrant, or order for the payment of money, state lottery ticket or certificate, seaman's ticket, bank receipt for payment of any loan, India bond or other bond, or any deed, note, or other security for money, or for any share or interest in any national stock or fund of this or any other country, or any stock or fund of any corporation, company, or society established by Act of Parliament or royal charter, or any power of attorney for the sale or transfer of any such stock or fund, or any share or interest therein, or any plate, jewels, or other personal effects, shall have been deposited, or shall be or remain for safe custody, or upon or for any special purpose, without any authority, either general, special, conditional or discretionary, to sell or pledge such debenture, bill, warrant, order, state lottery ticket or certificate, seaman's ticket, Bank receipt, bond, deed, note or other security, plate, jewels, or other personal effects, or to sell, transfer, or pledge the stock or fund, or share or interest in the stock or fund to which such security or power of attorney shall relate, shall sell, negociate, transfer, assign, pledge, embezzle, secrete, or in any manner apply to his or their own use or benefit, any such debenture, bill, warrant, order, state lottery ticket or certificate, seaman's ticket, Bank receipt, bond, deed, note, or other security, as hereinbefore mentioned, plate, jewels, or other personal effects, or the stock or fund, or share or interest in the stock or fund to which such security or power of attorney shall relate, in violation of good faith, and contrary to the special purpose for which the things hereinbefore mentioned, or any or either of them, shall have been deposited, or shall have been, or remained with or in the hands of such person or persons, with intent to defraud the owner or owners of any such instrument or security, or the person or persons depositing the same, or the owner or owners of the stock or fund, share or interest, to which such security or power of attorney shall relate, every person so offending, in any part of the united kingdom of *Great Britain* and *Ireland*, shall be deemed and taken to be guilty of a misdemeanor, and, being thereof convicted according to law, shall be sentenced to transportation for any term not exceeding fourteen years, or to receive such other punishment as may by law be inflicted on a person or persons guilty of a misdemeanor, and as the court before which such offender or offenders may be tried and convicted shall adjudge.

Persons subject to punishment, for embezzlement of any deed, or other security for money entrusted to their care.

'II. And whereas it is usual for persons having dealings with bankers, merchants, brokers, attornies, and other agents, to deposit or place in the hands of such bankers, merchants, brokers, attornies, and other agents, sums of money, bills, notes, drafts, cheques or orders for the payment of money, with directions or orders to invest the monies so paid, or to which such bills, notes, drafts, cheques or orders relate, or part thereof, in the purchase of stocks or funds, or in or upon government or other securities for money, or to apply and dispose thereof in other ways or for other purposes; and it is expedient to prevent embezzlement and malversation in such cases also:' Be it therefore enacted by the authority aforesaid,

No. II. 52 Geo. III. c. 63.

For preventing bankers and others from disposing, for their own use, of property deposited with them.

That if any such banker, merchant, broker, attorney, or other agent, in whose hands any sum or sums of money, bill, note, draft, cheque or order for the payment of any sum or sums of money shall be placed, with any order or orders in writing, and signed by the party or parties who shall so deposit or place the same, to invest such sum or sums of money, or the money to which such bill, note, draft, cheque or order as aforesaid shall relate, in the purchase of any stock or fund, or in or upon government or other securities, or in any other way, or for any other purpose specified in such order or orders, shall in any manner apply to his or their own use and benefit, any such sum or sums of money, or any such bill, note, draft, cheque or order for the payment of any such sum or sums of money as hereinbefore mentioned, in violation of good faith, and contrary to the special purpose specified in the direction or order in writing hereinbefore mentioned, with intent to defraud the owner or owners of any such sum or sums of money, or order for the payment of any sum or sums of money; every person so offending in any part of the united kingdom, shall in like manner be deemed and taken to be guilty of a misdemeanor, and being convicted thereof according to law, shall incur and suffer such punishment as is hereinbefore mentioned.

Act not to prevent persons receiving money due on securities.

III. Provided always, and be it further enacted by the authority aforesaid, That nothing herein contained shall extend, or be construed to extend, to prevent any of the persons hereinbefore mentioned from receiving any money which shall be or become actually due and payable upon or by virtue of any of the instruments or securities hereinbefore mentioned, according to the tender and effect thereof, in such manner as he or they might have done, if this Act had not been made.

Not to extend to partners not being privy to offence.

IV. Provided also, and be it further enacted by the authority aforesaid, That the penalty by this Act annexed to the commission of any offence intended to be guarded against by this Act, shall not extend or be construed to extend to any partner or partners, or other person or persons of or belonging to any partnership, society or firm, except only such partner or partners, person or persons, as shall actually commit or be accessary or privy to the commission of such offence; any thing herein contained to the contrary in any wise notwithstanding.

Not to lessen any remedy at law or equity regarding party aggrieved.

V. Provided also and be it further enacted by the authority aforesaid, That nothing in this Act contained, nor any proceeding, conviction or judgment to be had or taken thereupon, shall hinder, prevent, lessen, or impeach any remedy at law or in equity, which any party or parties aggrieved by any offence against this Act might or would have had, or have been entitled to if this Act had not been made, nor any proceeding, conviction, or judgment had been had or taken thereupon; but nevertheless the conviction of any offender against this Act shall not be received in evidence in any action at law, or suit in equity, against such offender; and further, that no person shall be liable to be convicted by any evidence whatever, as an offender against this Act, in respect of any Act, matter or thing done by him, if he shall at any time previously to his being indicted for such offence, have disclosed such Act, matter, or thing on oath, under or in consequence of any compulsory process of any court of law or equity, in any action, suit, or proceeding, in or to which he shall have been a party, and which shall have been *bonâ fide* instituted by the party aggrieved by the act, matter, or thing, which shall have been committed by such offender himself.

Not to affect trustees or mortgagees.

VI. Provided always, and it is hereby expressly enacted and declared, That nothing in this Act contained shall extend to or affect any person or persons being a trustee or trustees in or under any marriage settlement, will, or other deed or instrument, or being a mortgagee or mortgagees of any property whatsoever, whether real or personal, in respect of any Act or Acts done by any such person or persons in relation to the property comprized in or affected by any such trust or mortgage as aforesaid.

Punishment of persons offending in Scotland.

VII. Provided always, and be it enacted, That every person who shall commit in *Scotland* any offence against this Act, which by the provisions thereof is constituted a misdemeanor, shall be liable to be punished by fine and imprisonment, or by either of them, or by transportation for any term

No. II. 52 Geo. III. c. 63.

not exceeding fourteen years, as the judge or judges before whom such offender shall be tried and convicted may direct.

VIII. Provided always, and it is hereby enacted, That nothing herein contained shall extend to restrain any banker, merchant, broker, attorney, or other agent, from selling, negotiating, transferring, or otherwise disposing of any securities, property, or other effects as aforesaid, in their custody or possession, upon which they shall have any lien, claim, or demand, which by law entitles them to sell or dispose thereof, unless such sale, transfer, or other disposal shall extend to a greater number or to a greater part of such securities, property, or other effects as aforesaid than shall be requisite or necessary for the purpose of paying or satisfying such lien, claim, or demand; any thing herein-before contained to the contrary thereof in any wise notwithstanding.

Act not to restrain bankers from disposing of securities on which they have a lien.

PART V.—CLASS X.

EMBEZZLEMENT OF PUBLIC STORES.

[No. I.] 31 Elizabeth, c. 4.—An Act against the Imbezilling of Armour, Habiliments of War and Victual.

[Inserted Class VII.]

[No. II.] 22 Charles II. c. 5.—An Act for taking away the Benefit of Clergy from such as steal Cloth from the Rack, and from such as shall steal or imbezil his Majesty's Ammunition and Stores.

[Inserted Class II.]

[No. III.] 9 and 10 William III. c. 41.—An Act for the better preventing the Imbezzlement of his Majesty's Stores of War, and preventing Cheats, Frauds, and Abuses, in paying Seamen's Wages.

No. III. 9 and 10 William III. c. 41.

'WHEREAS notwithstanding divers good laws made and enacted, for the preventing of the stealing and embezzlement of his Majesty's stores of war, and naval stores, those frauds, thefts, and embezzlements are frequently practised, and the convicting of such offenders is rendered difficult and impracticable, by reason it rarely happens that direct proof can be made of such offender's immediate taking, embezzling, or carrying away any of his Majesty's said stores of war and naval stores out of or from his Majesty's storehouses, docks, yards, ships, ordnance, or other places for keeping and preserving the same, but only that such goods are marked with the King's mark, and found in the custody and possession of the said person accused for stealing or embezzling the same, to the great encouragement of such wicked offenders, and to his Majesty's and the kingdom's great damage:' For preventing such embezzlements for the future, and for the more effectual execution of the laws and statutes already in force against such embezzlements and thefts, be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons, in Parliament assembled, and by the authority of the same, That from and after the four

No. III. 9 and 10 William III. c. 41.

and twentieth day of *June*, one thousand six hundred and ninety-eight, it shall not be lawful to or for any person or persons whatsoever, other than persons authorized by contracting with his Majesty's principal officers or commissioners of the navy, ordnance or victualling office, for his Majesty's use, to make any stores of war or naval stores whatsoever, with the marks usually used to and marked upon his Majesty's said warlike and naval or ordnance stores; that is to say, any cordage of three inches and upwards, wrought with a white thread laid the contrary way, or any smaller cordage, to wit, from three inches downwards, with a twine in lieu of a white thread, laid to the contrary way as aforesaid, or any canvas wrought or unwrought, with a blue streak in the middle, or any other stores with the broad arrow, by stamp, brand, or otherwise, upon pain that every such person or persons, who shall make such goods so marked as aforesaid, not being a contractor with his Majesty's principal officers or commissioners of the navy, ordnance, or victuallers, for his Majesty's use, or employed by such contractor for that purpose as aforesaid, shall, for every such offence, forfeit such goods, and the sum of two hundred pounds, together with costs of suit; one moiety whereof shall be to his Majesty, and the other moiety to the informer, to be recovered by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at *Westminster*, wherein no essoin, privilege, protection, wager of law, injunction or order of restraint, nor more than one imparlance, shall be allowed.

No warlike or naval stores, except for the King's use, shall be made, with the King's marks, &c.

Penalty.

II. And be it further enacted by the authority aforesaid, That such person or persons, in whose custody, possession or keeping, such goods or stores marked as aforesaid shall be found (1), not being employed as aforesaid, and such person or persons who shall conceal such goods or stores marked as aforesaid, being indicted (2) and convicted of such concealment, or of the having such goods found in his custody, possession or keeping (3), shall forfeit such goods, and the sum of two hundred pounds, together with the costs of prosecution, one moiety to his Majesty, and the other moiety to the informer, to be recovered as aforesaid, and shall also suffer imprisonment until payment and performance of the said forfeiture, unless such person shall, upon his trial, produce a certificate under the hand of three or more of his Majesty's principal officers or commissioners of the navy, ordnance, or victuallers, expressing the numbers, quantities, or weights of such goods, as he or she shall then be indicted for, and the occasion and reason of such goods coming to his or her hands or possession.

Penalty on person in whose custody such marked stores are found, &c. 'By 9 Geo. 1. c. 8. § 3 & 4, the penalty of this Act may be mitigated.'

IV. Provided also, and be it further enacted by the authority aforesaid, That the said principal officers or commissioners of the navy, ordnance, or victualling office for the time being, may sell and dispose of any of the stores aforesaid, so marked as aforesaid, as they did or might have done before the making of this Act; and that such person or persons as heretofore have or shall hereafter buy any such stores, or other stores so marked as aforesaid, of the said principal officers or commanders, or by their order, may keep and enjoy the same, without incurring the penalty of this Act, or any law to the contrary whatsoever, upon producing a certificate or certificates under the hand and seal of three or more of the said principal officers or commissioners of the navy, ordnance, or victualling office, that they bought such goods from them the said principal officers or commissioners, or from such person or persons as did buy the said stores from the said principal officers or commissioners, at any time before such stores

Commissioners of the navy, ordnance, &c. may sell any of the said stores so marked, &c.

(1) Under this Act it must be alledged, that the goods were *found* in the custody, &c.; R. *v.* Harman, infrà; Cole's Case, E. P. C. ch. 16. § 153.

(2) In Rex *v.* Harman, 2 Lord Raym. 1104, it was objected—1. That no indictment lay upon this Act; but overruled, as the forfeiture accrues by conviction in one indictment. 2. That the indictment, which alledged that the defendant, not being, &c. had in his possession stores, &c. *contra Formam Statuti*, which were found in his possession, was not sufficient, as the offence does not consist in having the goods, but in their being found, to which the proceeding *contra Formam* did not apply; and the indictment was on this point held to be bad.

(3) A widow, having in her possession canvas marked, made up into table linen, sheeting, &c. and proved to have been brought into family use in the life-time of her husband, was ruled by Sir M. Foster not to incur the penalty for such possession; Foster, Appx. 439, Ed. 1792; E. P. C. ch. 16. § 153.

No. III. 9 and 10 William III. c. 41.

were found in their custody; in which certificate or certificates the quantities of such stores shall be expressed, and the time when and where bought of the said commissioners, who, or any three or more of them, for the time being, are hereby impowered and directed, from time to time, to give to such person or persons, who shall desire the same, and have bought, and shall hereafter buy any of the aforesaid stores, within thirty days after the sale and delivery of the said stores so sold, or to be sold as aforesaid.

King's stores may be lent to any ship in distress, so they be restored.

VIII. Provided always, and be it further enacted by the authority aforesaid, That nothing in this Act contained shall be construed to hinder any the principal officers and commissioners of the navy, or any chief commander of any of his Majesty's ships at sea, to lend any of his Majesty's stores to any merchant ship or vessel in distress or otherwise, as might lawfully be done before the making of this Act, in case such goods so lent be restored with all possible conveniency; and provided such person or persons so borrowing the said stores, from time to time, have such certificate as aforesaid, which the said principal officers and commissioners of the navy, or commander in chief, are hereby required to give to the party or parties that shall so borrow the same. [This made a publick Act by 1 Geo. 1. sess. 2. c. 25. § 14.]

[No. IV.] 1 George I. stat. 2. c. 25.—An Act to prevent Disturbances by Seamen, and others; and to preserve the Stores belonging to his Majesty's Navy Royal; and also for explaining an Act for the better preventing the Imbezilment of his Majesty's Stores of War, and preventing Cheats, Frauds, and Abuses in paying Seamen's Wages; and for reviving and continuing an Act for the more effectual Suppression of Piracy.

No. IV. 1 Geo. I. st. 2. c. 25.

I. 'WHEREAS divers fightings, quarrellings, and disturbances, do often happen in and about his Majesty's offices, yards, and stores belonging to his Majesty's royal navy, and frequent differences and disorders are occasioned in and about the office of his Majesty's treasury of the navy, on pay-days in *London*, *Portsmouth*, and other places of meeting for the service of the said navy; by the unreasonable turbulency of seamen, and others, attending on or relating to that service, or their creditors, or by the rudeness of the officers intrusted with his Majesty's stores on land, or in his royal ships, when they are questioned by the principal officers and commissioners of the said navy, either for neglect or imbezilment of his Majesty's provisions, ammunition, or other equipage of the navy under their charge, not only to the disturbance of the peace, but sometimes to the danger and hindrance of his Majesty's service, both in point of husbanding his Majesty's revenue, and also in the dispatch of the ships, on which the honour and safety of his Majesty and kingdom so much depend, which inconveniences require a speedier remedy than the ordinary course of justice; the parties accused or offending being many times bound to sea, and the principal officers and commissioners, for want of authority to suppress such insolencies and disorders, and hear, determine, and punish such offences, being necessitated to pass by many offences in which his Majesty might be righted, if their necessary attendance on that important service would permit the prosecution of the offenders before other ordinary judicatures:' For remedy whereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, and by the authority of the same, That the treasurer, comptroller, surveyor, clerk of the Acts, and the commissioners of the navy for the time being, or any one or more of them, shall, from and after the twenty-ninth day of *September* next ensuing, have power and authority, by warrant under any one or more of their hands and seals, to cause such offenders to be apprehended, and brought before him or them, and to examine and punish all such person and persons whom he or they, upon their

Treasurer, &c. of the navy impowered to punish disturbances in the yards, &c.

No. IV. 1 George I. st. 2. c. 25.

enquiry and examination of witnesses upon oath (which oath he or they are hereby impowered to administer) or upon confession of the party or parties accused, or on view in his or their presence, shall find to make or have made any such disturbance, fighting, or quarrelling, in any the yards, stores, offices, or places aforesaid, at pay-days, or on other occasions relating to the naval services, in such manner as followeth (that is to say), that they, or any one or more of them, may punish any the said offences by fine, imprisonment, or either of them, the fine not exceeding twenty shillings, and imprisonment not exceeding one week; and have power in such cases to commit such person to the next gaol, or to the custody of the messenger or messengers for the time being attendant on them, who respectively are to receive and detain such person so offending; and that the said principal officers and commissioners, or any one or more of them then present, have hereby power and authority to discharge such fine or imprisonment, if they think fit, and for non-payment of the fine so imposed and not remitted, to imprison the party offending until payment thereof, or otherwise to cause such offender or offenders to be sent to the next house of correction, to the place where such offence shall be committed, there to be kept at hard labour for the space of two months, without bail or mainprize, which said fines shall be paid to the clerk of the chest at *Chatham* for the use of the maimed seamen.

And may bind the offenders to good behaviour, &c.

II. And it is hereby further enacted by the authority aforesaid, That the said officers and commissioners, or any one or more of them (in cases where greater example or punishment is needful) may also bind the person or persons offending, to their good behaviour, and to answer the offences whereof they shall be accused, at the next assizes or general quarter-sessions of the peace for the county or place where such offence shall be committed, with or without sureties, as occasion shall be; and in default of such securities, where the same shall be required, to commit the person or persons so offending, as aforesaid, to the common gaol of the county or place where such offence shall be committed, in order to their being prosecuted for such offence or offences at the next assizes or general quarter-sessions of the peace for such county or place.

III. 'And whereas divers of his Majesty's stores and ammunition, pertaining to his navy and shipping, or service thereof, are often privately imbezilled or filched away:' For the more effectual discovery of such stores and ammunition, It is hereby further enacted by the authority aforesaid, That the said principal officers and commissioners of his Majesty's navy, or any one or more of them, shall have hereby power to enquire, and by warrant under his or their hands and seals, to impower any person or persons to search for the same in all places, in like manner as justices of peace may do in case of felony, and punish the offenders by such fine and imprisonment, as aforesaid, the value of the goods so imbezilled or filched away, not exceeding the sum of twenty shillings, and cause the goods to be brought in again; and if the offence be of such nature as doth require an higher and severer punishment, then that they, any one or more of them, may commit such offender to the next gaol, or to the custody of their messenger or messengers aforesaid, till he or they offending enter into recognizance with surety or sureties, according to the nature of the offence, to appear and answer to the same in his Majesty's Court of Exchequer, or other Court where his Majesty shall question him or them for the same, within one year following, on process duly served for that purpose on such offender or offenders.

The said officers impowered to enquire of the imbezilment of naval stores, and punish the offenders.

IV. 'And whereas divers ill-disposed persons, upon pretence of carrying his Majesty's naval goods, provisions, victuals, stores and ammunition from his Majesty's yards, wharfs, storehouses, or other places, to his Majesty's ship or ships, or to such ship or ships as are imployed in his Majesty's service, or such persons as are employed to recarry or remove from the said ship or ships such naval stores, goods, provisions, victuals, stores and ammunition, to such his Majesty's yards, wharfs, storehouses, or other places, do frequently imbezil, take and carry them away, where they cannot be found, and remove themselves to places unknown, before they can be apprehended or convicted by due process of law, by reason that those witnesses that should prove the said

No. IV. 1 George I. st. 2. c. 25.

'facts are bound forth to sea or otherwise imployed elsewhere, and it is 'found necessary that justice be more speedily done in such cases, than by 'ordinary course of law it can be:' Be it therefore enacted by the authority aforesaid, That the treasurer, comptroller, surveyor, clerk of the acts, and commissioners of the navy, for the time being, or any one or more of them, where the goods so imbezilled, taken or carried away, shall be under the value of twenty shillings, shall have full power and authority, upon the oath of one or more witnesses (which they or any of them have hereby power to administer) or confession of such party so offending as aforesaid, or other legal proof thereof, to convict the party or parties so offending, by writing under his or any of their hands and seals, and to impose such fine or fines upon all or every such person or persons so offending and convicted, as aforesaid, as to the said treasurer, comptroller, surveyor, clerk of the acts, and the commissioners of the navy, for the time being, or any one or more of them, shall in his or their discretion seem meet; the said fine or fines not exceeding double the value of the naval goods, provisions, victuals, stores or ammunition so imbezilled or carried away; which fine or fines shall be levied by distress and sale of the goods of such offender, by virtue of the warrant of such officer or officers who shall so convict the said offender, directed in manner aforesaid, to the person or persons aforesaid, returning the overplus, if any be, to the owner of such goods; or in case no sufficient distress can be found, as aforesaid, the party or parties so offending shall, by virtue of the warrant of such officer before whom such person or persons shall be convicted, be imprisoned in the next gaol for any space of time not exceeding three months, without bail or mainprize.

When the goods imbezilled are under the value of 20s. offenders shall be fined.

Fine to be levied by distress, and for want thereof imprisonment for 3 months.

V. And be it further enacted by the authority aforesaid, That the said treasurer, comptroller, surveyor, clerk of the acts and commissioners of the navy for the time being, or any one or more of them, upon oath of one or more credible witnesses (which he and they have hereby power to administer) testifying, That his Majesty's naval goods, stores, ammunition, or naval provisions, or any part thereof, are conveyed into any ship or vessel whatsoever, and mentioning the name of such ship or vessel being at anchor, and not ready to sail that tide, within any of the roads, harbours, creeks, or rivers, within his Majesty's dominions, or any person or persons by their or one of their warrant or warrants (in which warrant or warrants the quantity or quality of such goods shall be specified) thereunto authorized and appointed in the day-time, shall have full power and authority to go on board any such ship or vessel whatsoever, being within any of the places aforesaid; and in case resistance or refusal be made upon demand, to enter and break open the hatches and cabins, or other places of such ship or vessel, and search therein for any such naval goods, stores, ammunition or provisions belonging to his Majesty's navy, which have been imbezilled, purloined and taken away; and the same to seize, take and carry away to any of his Majesty's yards or storehouses, to be applied to his Majesty's use, unless the said officers and commissioners, upon hearing the matter, shall find they were unduly seized, and thereupon restore them to the party claiming the same, which they are hereby impowered to do.

Naval stores imbezilled and put on shipboard shall be seized by warrant of the said treasurer, &c.

VI. And be it further enacted by the authority aforesaid, That every person or persons who shall counterfeit the hands of the treasurer, comptroller, surveyor, clerk of the acts, or of the commissioners of the navy, or any of them, or the hand or hands of the signing or vouching officers of his Majesty's navy, ships or yards, or the hand or hands of any one or more of them, to any bill, ticket, or other papers, by virtue whereof his Majesty's naval treasure is or may be paid or disposed of, or shall knowingly produce any such counterfeit ticket, bill, or other paper, every such person or persons so offending, shall or may be lawfully committed to prison by the said officers or commissioners, or any one of them, until he shall find surety to appear at the next general assizes or quarter sessions of the peace for the county, town or place where such offender shall be so committed to prison, to be there proceeded against according to law.

Punishment of counterfeiting the hand of the treasurer, &c.

[IX. Admiralty, &c. may administer oaths in cases relating to the receiving, &c. his Majesty's treasure, &c.]

No. IV.
1 Geo. I. st. 2. c. 25.

X. And it is hereby further declared and enacted by the authority aforesaid, That the said treasurer, comptroller, surveyor, clerk of the acts, and the commissioners of the navy, for the time being, or any one or more of them, may execute all and every the powers hereby, or by any other law given them, or any one of them, on all and every the offenders aforesaid, in all places as well within liberties as without; any law, statute, ordinance, charter, or privilege to the contrary notwithstanding.

Treasurer of the navy, &c. may execute powers hereby given.

[XI. Act shall not repeal, &c. 22 Car. 2. c. 5.]

[XII. Admiralty may execute this Act.]

XIII. Provided also, and be it further enacted, That no person or persons who shall be punished by virtue of this Act, shall be punished by force of any other law for the same offence.

[XIV. This and 9 and 10 W. 3. c. 41. Public Acts.]

Convictions final.

XV. And be it further enacted by the authority aforesaid, That all and every the convictions and judgments which shall be had, made or given in pursuance of this Act, shall be final, and not subject to any appeal or certiorari, nor be removed, superseded or suspended thereby, or by any of them; any law, statute, or provision to the contrary thereof in any wise notwithstanding.

Duration of this Act.

[XVI. General Issue.—Double Costs.]

XVIII. Provided, That this Act shall be in force for five years, and to the end of the next session of Parliament, after the expiration of the said five years, and no longer. [Made perpetual by 9 Geo. I. c. 8. § 3.]

V.

[No. V.] 9 George I. c. 8.—An Act for continuing some Laws, and reviving others therein mentioned, * * * * * * **and relating to the Payment of Seamen's Wages, and the Preservation of Naval Stores and Stores of War**; and for other Purposes.

No. V.
9 Geo. I. c. 8.

1 Geo. 1. st. 2. c. 25.

9 and 10 W. 3. c. 41.

III. AND be it enacted by the Authority aforesaid, That an Act made in the first year of his present Majesty's reign, intituled, *An Act to prevent Disturbances by Seamen and others, and to preserve the Stores belonging to his Majesty's Navy Royal, and also for explaining an Act for the better preventing the Embezilment of his Majesty's Stores of War, and preventing Cheats, Frauds and Abuses in paying Seamen's Wages, and for reviving and continuing an Act for the more effectual Suppression of Piracy*, as to so much thereof as is expired, shall be, and is hereby revived from the five and twentieth day of *March*, one thousand seven hundred and twenty-three, and made perpetual: 'And whereas by an Act made in the 'ninth and tenth years of the reign of his late Majesty King *William* the 'Third, intituled, *An Act for the better preventing the Imbezilment of his 'Majesty's Stores of War, and preventing Cheats, Frauds and Abuses in 'paying Seamen's Wages*, a penalty of two hundred pounds, with costs of 'prosecution and pain of imprisonment, is inflicted upon persons having 'in their custody, possession or keeping, or concealing contrary to the 'said Act, any warlike, naval or ordnance stores therein mentioned, 'or any other stores marked with the broad arrow, by stamp, brand, or 'otherwise: And whereas it is necessary to give power to mitigate the 'said penalties, and to explain and amend the said Act:' Be it enacted by the authority aforesaid, That if any person or persons shall, after the five and twentieth day of *March* one thousand seven hundred and twenty-three, be lawfully convicted of having in his, her, or their custody, any timber, thick stuff or plank, marked with the broad arrow, by stamp, brand, or otherwise, or of concealing any timber, thick stuff or plank so marked, every such person so offending, shall suffer, forfeit and pay, as for having, keeping or concealing any other warlike, naval or ordnance stores contrary to the said Act.

IV. Provided always, and it is hereby further enacted, That it shall and may be lawful to and for any judge, justice or justices, before whom any offender or offenders shall be convicted of any of the crimes or offences before recited, enacted or mentioned in this Act, to mitigate the penalty for the

same, as he or they shall see cause, and to commit the offender or offenders so convicted, to the common gaol of the county or place where the offence shall be committed, there to remain without bail or mainprize, until payment be made of the penalty and forfeiture imposed by this or the said former Act, or mitigated as aforesaid, or to punish such offender or offenders corporeally, by causing him, her, or them to be publickly whipped, or committed to some publick workhouse, there to be kept to hard labour for the space of six months, or a less time, as to such judge, justice or justices, in his or their discretion shall seem meet; any thing in the said recited Act, or in any other Act to the contrary notwithstanding. No. V. 9 Geo. I. c. 8.

V. And be it further enacted, That where any dispute shall arise between the persons, upon whose informations or oaths, any person or persons offending in the premisses, or against the said former Act, shall be prosecuted and convicted, touching any right or title to any of the forfeitures or penalties before-mentioned, or any part thereof, the judge, justice or justice or justices before whom such offender or offenders shall be convicted, shall examine the matter and finally determine the same.

[No. VI.] 17 George II. c. 40.—An Act to continue the several Laws therein mentioned, * * * * * * * * * * * * **and to explain two Acts relating to the Prosecution of Offenders for embezzling Naval Stores, or Stores of War**; and for other Purposes.

X. 'AND whereas by an Act made in the ninth and tenth years of the reign of King *William* the Third, intituled, *An Act for the better preventing the Imbezzlement of his Majesty's Stores of War, and preventing Cheats, Frauds, and Abuses in paying Seamen's Wages;* it is enacted, 'That from and after the four and twentieth day of *June* one thousand six hundred ninety-eight, it shall not be lawful to or for any person or persons whatsoever, other than persons authorized by contracting with his Majesty's principal officers or commissioners of the navy, ordnance, or victualling office, for his Majesty's use, to mark any stores of war, or naval stores whatsoever, with the marks usually used to, and marked upon his Majesty's said warlike and naval or ordnance stores (in the manner as in the said Act is described), or any other stores, with the broad arrow, by stamp, brand, or otherwise; upon pain that every such person or persons who shall make such goods so marked, as in the said Act mentioned, not being a contractor with his Majesty's principal officers, or commissioners of the navy, ordnance, or victualling, for his Majesty's use, or employed by such contractors for that purpose as aforesaid, shall for every such offence forfeit such goods, and the sum of two hundred pounds, together with the costs of suit; one moiety whereof shall be to his Majesty, and the other moiety to the informer, to be recovered by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at *Westminster*, wherein no essoin, privilege, protection, wager of law, injunction, or order of restraint, nor more than one imparlance shall be allowed: And it is thereby further enacted, That such person or persons in whose custody, possession, or keeping, such goods or stores marked as aforesaid, shall be found, not being employed as aforesaid; and such person or persons who shall conceal such goods or stores marked as aforesaid, being indicted and convicted of such concealment, or of the having such goods found in the custody, possession, or keeping, shall forfeit such goods, and the sum of two hundred pounds, together with the costs of prosecution, one moiety to his Majesty, and the other moiety to the informer, to be recovered as aforesaid; and shall also suffer imprisonment, until payment and performance of the forfeiture, unless such person shall, upon his trial, produce a certificate, under the hands of three or more of his Majesty's principal officers, or commissioners of the navy, ordnance, or victualling, expressing the numbers, quantities, or weights of such goods, as he or she shall then be indicted for, and the No. VI. 17 Geo. II. c. 40. 9 and 10 W. 3. c. 41.

No. VI.
17 Geo. II. c. 40.
9 Geo. 1. c. 8.

'occasion and reason of such goods coming to his or her hands or possession: And whereas by another Act made in the ninth year of the reign of 'his late Majesty King *George* the First, intituled, *An Act for continuing some 'Laws, and reviving others, therein mentioned, for exempting Apothecaries 'from serving Parish and Ward Offices, and upon Juries, and relating to 'Jurors, and to the Payment of Seamen's Wages, and the Preservation of 'Naval Stores, and Stores of War, and concerning the Militia and Trophy 'Money, and against clandestine Running of uncustomed Goods, and for 'more effectual preventing Frauds relating to the Customs, and Frauds in 'mixing Silk with Stuffs to be exported;* the aforesaid Act of King *William* 'is recited, and a penalty of two hundred pounds, with costs of prosecution, and pain of imprisonment, is inflicted upon persons having in their 'custody, possession, or keeping, or concealing, contrary to the said Act, 'any warlike, naval, or ordnance stores therein mentioned, or any other 'stores marked with the broad arrow, by stamp, brand, or otherwise: And 'whereas it was necessary to give power to mitigate the said penalties, and 'to explain and amend the said Act, it is thereby enacted, That if any 'person or persons shall, after the five and twentieth day of *March* one 'thousand seven hundred and twenty-three, be lawfully convicted of having in his, her, or their custody, any timber, thick stuff, or plank so 'marked; every such person so offending shall suffer, forfeit, and pay as 'for having, keeping, or concealing any other warlike, naval, or ordnance 'stores, contrary to the said Act: And it is thereby provided and enacted, 'That it shall be lawful to and for any judge, justice, or justices, before 'whom any offender or offenders shall be convicted of any of the crimes or 'offences before recited, enacted, or mentioned in the said Act, to mitigate the penalty for the same, as he or they shall see cause, and to commit the offender or offenders so convicted to the common gaol of the 'county or place where the offence shall be committed, there to remain 'without bail or mainprize, until payment be made of the penalty and 'forfeiture imposed by that or the said former Act, or mitigated as aforesaid; or to punish such offender or offenders corporeally, by causing him, 'her, or them to be publickly whipped, or committed to some publick 'workhouse, there to be kept to hard labour for the space of six months, 'or a less time, as to such judge, justice or justices in his or their discretion shall seem meet; any thing in the said recited Act, or in any other 'Act to the contrary notwithstanding: And it is thereby further enacted, 'That where any disputes shall arise between the persons upon whose informations or oaths any person or persons offending in the premisses, or 'against the said former Act, shall be prosecuted and convicted touching 'any right or title to any of the forfeitures or penalties before mentioned, 'or any part thereof; the judge, justice or justices, before whom such 'offender or offenders shall be convicted, shall examine the matter, and 'finally determine the same; and whereas some doubts have arisen touching the method of trial and punishment of offenders against the said recited Acts, whether as the said Acts are worded, such offender or offenders may be indicted and tried for the crimes and offences in the said Acts 'mentioned, and whether any judge, justice or justices of assize, or justices of peace at the sessions may hear, try and determine the same, and 'on conviction set such fine, or mitigate the same, and the forfeitures and 'penalties inflicted by the aforesaid Acts, on such offender or offenders, as 'the nature of the offences may deserve; or whether such offenders as 'aforesaid, in order for recovering the said forfeitures and penalties inflicted 'by the said Act, can only be proceeded against by action of debt, bill, 'plaint, or information, in some of his Majesty's Courts of Record at '*Westminster;* by reason of which doubts, it has so happened, that offenders against the said recited Acts, having been indicted for the same, 'have escaped unpunished, to the great encouragement of such offenders 'and others, to commit the like crimes and offences for the future;' For the remedying whereof, and for the explaining the Acts above mentioned, it is hereby declared and enacted, That it shall and may be lawful to and for any judge, justice or justices at the assizes, or justices of the peace at the general quarter-sessions to be holden for any county, city, borough or

Justices of assize, or quarter sessions, may try offences relating to the stores, &c.

No. VI. 17 Geo. II. c. 40.

town corporate, to hear, try and determine, by indictment or otherwise, all or any the crimes or offences mentioned in the said recited Acts; and that the said judge, justice or justices of assize, or justices of peace as aforesaid, before whom such offender or offenders shall be indicted, or tried and convicted of all or any the crimes or offences in the said recited Acts mentioned, may impose any fine, not exceeding the sum of two hundred pounds, on such offender or offenders; one moiety to be paid to his Majesty, and the other moiety to the informer; and may mitigate the said penalty and forfeitures, inflicted by the said recited Acts, or either of them, and to commit the offender or offenders so convicted and fined, to the common gaol of the county or place where the offence shall be committed; there to remain without bail or mainprize, until payment be made of the penalty and forfeitures imposed by this or the said former Acts, or mitigated as aforesaid; or in lieu thereof, to punish such offender or offenders in the premisses corporeally, by causing him, her, or them to be publickly whipped, and committed to some house of correction, or publick workhouse, there to be kept *to hard labour* for the space of three months, or less time, as to such judge, justice or justices of assize, or justices of the peace, shall in his or their discretion seem meet; any thing in the said recited Acts, or in any other Act to the contrary notwithstanding.

[No. VII.] 39 and 40 George III. c. 89.—An Act for the better preventing the Embezzlement of his Majesty's Naval Ordnance, and Victualling Stores.—[28*th July* 1800.]

No. VII. 39 & 40 G. III. c. 89.

'WHEREAS by an Act of Parliament made and passed in the twenty-second year of the reign of King *Charles* the Second, intituled, *An Act for taking away the Benefit of Clergy from such as steal Cloth from the Rack, and from such as shall steal or embezzle his Majesty's Ammunition and Stores*, it is amongst other things enacted, That no person or persons who shall feloniously steal or embezzle any of his Majesty's sails, cordage, or any other of his Majesty's naval stores, to the value of twenty shillings, and be thereupon found guilty in manner therein mentioned, shall be admitted to have the benefit of his or their clergy, but utterly be excluded thereof, and shall suffer death in such manner and form as they should if they were no clerks: And whereas by an Act of Parliament made and passed in the ninth and tenth years of the reign of King *William* the Third, intituled, *An Act for the better preventing the Embezzlement of his Majesty's Stores of War, and preventing Cheats, Frauds, and Abuses in paying Seamen's Wages*, a penalty of two hundred pounds, with costs of prosecution, is inflicted upon persons in whose custody, possession, or keeping, shall be found, or who shall conceal contrary to the said Act any warlike, naval, or ordnance stores, marked in such manner as therein mentioned: And whereas by another Act of Parliament made and passed in the ninth year of the reign of King *George* the First, intituled, *An Act for continuing some Laws and reviving others therein mentioned, for exempting Apothecaries from serving Parish and Ward Offices and upon Juries, and relating to Jurors, and to the Payment of Seamen's Wages, and the Preservation of Naval Stores and Stores of War, and concerning the Militia and Trophy Money, and against clandestine Running of uncustomed Goods, and for the more effectual preventing Frauds relating to the Customs, and Frauds in mixing Silks with Stuffs to be exported*, it is enacted, That if any person or persons shall be lawfully convicted of having in his, her, or their custody, or of concealing, any timber, thick stuff, or plank, marked with the broad arrow, by stamp, brand, or otherwise, every such person shall suffer, forfeit, and pay as for having, keeping, or concealing any other warlike, naval, or ordnance stores, contrary to the said Act of the ninth and tenth years of King *William* the Third; and by the said last recited Act power is given to the judge, justice or justices before whom any offender shall be convicted of any of the crimes or offences before recited, to mitigate the penalty for the same as he or they

22 Car. 2. c. 5.

9 and 10 Gul. 3. c. 41.

9 Geo. 1. c. 8. and

No. VII. 39 & 40 G. III. c. 89.

17 Geo. 2. c. 40. § 10. recited.

'shall see cause, or to punish such offence corporeally, by causing him, her, 'or them to be publickly whipt or committed to some publick workhouse, 'there to be kept to hard labour for the space of six months, or a less 'time, as to such judge, justice or justices, in his or their discretion shall 'seem meet: And whereas by another Act of Parliament, made and 'passed in the seventeenth year of the reign of King *George* the Second, 'intituled, *An Act to continue the several Laws therein mentioned, for pre-* 'venting Theft and Rapine on the Northern Borders of England, *for the* 'more effectual punishing wicked and evil-disposed Persons going armed in 'Disguise, and doing Injuries and Violences to the Persons and Properties of his 'Majesty's Subjects, and for the more speedy bringing the Offenders to Jus-* 'tice; for continuing two Clauses to prevent the cutting or breaking down the 'Bank of any River or Sea Bank; and to prevent the malicious cutting of Hop 'Binds, and for the more effectual Punishment of Persons maliciously setting 'on Fire any Mine, Pit, or Delph of Coal or Cannel Coal; and of Persons un-* 'lawfully hunting, or taking any Red or Fallow Deer in Forests or Chases, or 'beating or wounding the Keepers or other Officers in Forests, Chases, or Parks: 'and for granting a Liberty to carry Sugars of the Growth, Produce, or Manu-* 'facture of any of his Majesty's Sugar Colonies in America, from the said Co-* 'lonies directly to foreign Parts in Ships built in Great Britain, and navigated 'according to Law; and to explain two Acts relating to the Prosecution of 'Offenders for embezzling Naval Stores or Stores of War; and to prevent the 'retailing of Wine within either of the Universities in that Part of Great Bri-* 'tain *called* England, *without Licence;* it is amongst other things declared 'and enacted, That it shall and may be lawful to and for any judge, justice 'or justices at the assizes, or justices of the peace at general quarter-ses- 'sions to be holden as therein mentioned, to hear, try and determine, by 'indictment or otherwise, all or any of the crimes or offences mentioned in 'the therein and herein recited Acts of the ninth and tenth years of the reign 'of King *William* the Third, and the ninth year of the reign of King *George* the 'First; and that the said judge, justice or justices of assize, or justices of the 'peace, may impose any fine not exceeding the sum of two hundred pounds on 'such offender or offenders, and may mitigate the said penalty and forfeitures 'inflicted by the said recited Acts or either of them, or in lieu thereof punish 'such offender or offenders in the premisses corporeally, by causing him, her, 'or them to be publickly whipt and committed to some house of correction 'or publick workhouse, there to be kept to hard labour for the space of 'three months, for less time, as to such judge, justice or justices of as- 'size, or justices of the peace, shall in his or their discretion seem meet: 'And whereas notwithstanding the penalties and punishments inflicted by 'the said recited Acts, the stealers, embezzlers, and receivers of his Majes- 'ty's warlike and naval ordnance and victualling stores have greatly in- 'creased, so that it has become necessary to make some further and more 'effectual provision for preventing their wicked practices in future:' Be it

Every person (not being a contractor, &c.) who shall sell or receive any new stores of war, &c. or who shall conceal them, shall be deemed receivers of stolen goods, and as such transported for 14 years, unless he produces on the trial a certificate from the navy board, &c.

therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, every person or persons (such person or persons not being a contractor or contractors, or employed as in the said recited Act of the ninth and tenth years of the reign of King *William* the Third is mentioned), who shall willingly or knowingly sell or deliver, or cause or procure to be sold or delivered, to any person or persons whomsoever, or who shall willingly or knowingly receive or have in his, her, or their custody, possession, or keeping, any stores of war, or naval, ordnance, or victualling stores, or any goods whatsoever marked as in the said recited Acts are expressed, or any canvas marked either with a blue streak in the middle, or with a blue streak in a serpentine form, or any bewper, otherwise called *buntin*, wrought with one or more streaks of raised tape (the said stores of war, or naval, ordnance, or victualling stores or goods above-mentioned, or any of them, being in a raw or unconverted state, or being new or not more than one third worn), and such person or persons who shall conceal such stores or goods, or any of them, marked as aforesaid, shall be deemed receivers of stolen goods knowing them to have been

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stolen, and shall, on being convicted thereof in due form of law, be transported beyond the seas for the term of fourteen years, in like manner as other receivers of stolen goods are directed to be transported by the laws and statutes of this realm, unless such person or persons shall upon his, her, or their trial, produce a certificate under the hands of three or more of his Majesty's principal officers or commissioners of the navy, ordnance, or victualling, expressing the numbers, quantities, or weights of such stores or goods, as he, she, or they shall then be indicted for, and the occasion and reason of such stores or goods coming to his, her, or their hands or possession.

Persons in whose custody shall be found canvas or buntin marked as herein mentioned (not being charged to be new or not more than one third worn) and persons who shall be convicted of any offence contrary to so much of the recited Act of 9 & 10 Gul. 3. as relates to warlike stores, shall, besides the forfeiture thereby imposed, suffer corporeal punishment. Penalty of 200*l.* may be mitigated.

II. And be it further enacted by the authority aforesaid, That such person or persons (not being a contractor or contractors, or employed as aforesaid), in whose custody, possession, or keeping any of the said stores called *canvas*, marked with a blue streak in a serpentine form, or bewper, otherwise called *buntin*, wrought as above-mentioned, shall be found, (such canvas or bewper, otherwise called *buntin*, not being charged to be new, or not more than one-third worn), and all and every person and persons who shall be convicted of any offence contrary to so much of the said recited Act of the ninth and tenth years of the reign of King *William* the Third, as relates to the making, or the having in possession or concealing any of his Majesty's warlike, or naval, or ordnance stores, marked as therein specified, shall, besides forfeiting such stores, and the sum of two hundred pounds, together with costs of suit as therein mentioned, be corporeally punished by pillory, whipping, and imprisonment, or by any or either of the said ways and means in such manner and for such such space of time as to the judge or justices before whom such offender or offenders shall be convicted, shall seem meet; any thing in the said last mentioned Act, or in the before recited Acts of the ninth year of King *George* the First, and the seventeenth year of King *George* the Second, to the contrary thereof in any wise notwithstanding: Provided always, That it shall and may be lawful to and for such judge or justices to mitigate the said penalty of two hundred pounds, as he or they shall see cause.

Nothing herein or in recited Act of 9 & 10 Gul. 3, shall exempt contractors, &c. except so far as concern stores which shall not have been before delivered into his Majesty's store unless they have been sold or returned by the commissioner.

III. Provided always, and be it enacted, That nothing in this Act or in the said recited Act of the ninth and tenth years of the reign of King *William* the Third, contained, shall extend, or be deemed, taken, or construed to extend to exempt from the operation of this Act, or the said recited Act respectively, any person or persons being a contractor or contractors, or employed as in the said last-mentioned Act is mentioned, except only so far as concerns stores or goods marked as aforesaid, which shall be *bonâ fide* provided, made up, or manufactured by such person or persons, or by their order, and which shall not have been before delivered into his Majesty's store, unless having been so delivered, they shall have been sold or returned to such person or persons by the commissioners of his Majesty's navy, ordnance, or victualling respectively.

If any persons shall deface any mark denoting the property of his Majesty in any stores, or shall employ any person so to do, he shall be deemed guilty of felony, and transported for 14 years.

IV. And be it further enacted by the authority aforesaid, That if any person or persons shall, from and after the passing of this Act, wilfully and fraudulently destroy, beat out, take out, cut out, deface, obliterate, or erase, wholly or in part, any of the marks in the said Act of the ninth and tenth years of the reign of King *William* the Third, or in this Act mentioned, or any other mark whatsoever, denoting the property of his Majesty, his heirs or successors, in or to any warlike or naval, ordnance or victualling stores, or cause, procure, employ, or direct any other person or persons so to do, for the purpose of concealing his Majesty's property in such stores, such person or persons shall be deemed guilty of felony, and shall, on being convicted thereof, be transported to parts beyond the seas for the term of fourteen years, in like manner as other felons are directed to be transported by the laws and statutes of this realm.

If any person, convicted of any offence contrary to the recited Act of 9 & 10 Gul. 3. shall be convicted of a second offence, which would not, as the first subject him to transportation, he shall be transported for 14 years.

V. And be it further enacted by the authority aforesaid, That if any person or persons who shall hereafter be convicted of any offence contrary to this Act, for which he shall not have been transported, or contrary

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this Act, for which he shall not have been transported beyond the seas, or contrary to the said recited Act of the ninth and tenth years of King *William* the Third, shall be guilty of a second offence, either contrary to that Act or to this present Act, which would not otherwise, as the first offence, subject him, her, or them to transportation, and shall be thereof legally convicted, such person or persons shall, by judgment of the Court wherein he, she, or they shall be so convicted, be transported to parts beyond the seas for the term of fourteen years, in like manner as other offenders may be transported by the laws and statutes of this realm now in force.

Persons returning from transportation under this Act shall suffer as felons without benefit of clergy.

VI. And be it further enacted by the authority aforesaid, That if any person or persons transported in pursuance of this Act shall return into any part of *Great Britain* or *Ireland*, before the end or expiration of the term for which he or she shall have been so transported, every such person or persons so returning shall suffer as felons, and shall have execution awarded against him, her, or them, as persons attainted of felony without benefit of clergy.

The Court may mitigate the punishment of transportation by pillory, whipping, fine, or imprisonment; application of fines, one half to the informer, and one half to the King.

VII. Provided always, and be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the Court before whom any offender or offenders shall be indicted and convicted of all or any of the crimes or offences hereinbefore mentioned to be punishable with transportation, to mitigate or commute such punishment, by causing the offender or offenders to be set on the pillory, publickly whipt, fined or imprisoned, or by all or any one or more of the said ways and means, as such Court in its discretion shall think fit; one moiety of which fine (if any imposed) shall be to his Majesty, his heirs and successors, and the other moiety thereof to the informer, and also to order such offender or offenders to be imprisoned until such fine be paid; any thing hereinbefore contained to the contrary thereof in any wise notwithstanding.

[VIII. If any person shall discover to the Navy Board, &c. or apprehend any offender guilty of stealing or embezzling his Majesty's stores, or of any offence against recited Act of 9 and 10 Gul. III. or this Act, which shall not be prosecuted in a summary way, he shall, on conviction, receive a reward of 20*l.* over his share of penalty, if not more than that sum.]

[IX. If any dispute shall arise respecting the title to such reward, it shall be determined by any of the commissioners of the navy, &c.]

Reward shall be paid on certificate from the officer of the court where the offender shall be tried, for which he may charge 5*s.*

X. And be it further enacted by the authority aforesaid, That the principal officers and commissioners of his Majesty's navy, ordnance, or victualling, as the case may require, shall cause the said reward of twenty pounds to be paid by the treasurer of the navy or ordnance respectively for the time being, out of any publick money in his hands, upon producing to them a certificate, under the hand of the clerk of assize, or his deputy, or other proper officer of the court before whom such offender or offenders shall be tried, certifying the conviction of the offender or offenders, and that the informer's share of any penalty or fine inflicted upon such offender or offenders doth not amount to more than the sum of twenty pounds, or if amounting to more, hath failed to be paid by such offender or offenders for the space of three months next after his or their conviction; unless such offender or offenders shall then be detained in pursuance of any sentence of imprisonment, and then for the space of three months next after the expiration of such sentence; which certificate the said clerk of assize, or other proper officer, is hereby required to give, and for which he shall charge the sum of five shillings, and no more; and the money paid by any such treasurer on account of such rewards, shall be allowed in his accounts, and he shall be discharged thereof accordingly; any law, custom, or usage to the contrary thereof in anywise notwithstanding.

Any commissioner of the navy, &c. or any justice of the peace, may grant warrants for searching houses, &c. where oath is

XI. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any commissioner of the navy, ordnance, or victualling, for the time being, (who, for the purposes hereinafter mentioned, is hereby authorized to act in every respect as if he had been named as a justice of the peace in the commission of the peace for the county, city, division, town corporate, liberty, or place in which he shall be resident, or into which his warrant shall be issued,) or any justice of the peace for any county, division, city, town corporate, liberty, or place, within this

kingdom, upon the oath of one or more credible person or persons, that there is reason or cause to suspect that any navy, ordnance, or victualling stores or goods belonging to his Majesty, his heirs or successors, are concealed in any dwelling-house, warehouse, workshop, outhouse, yard, garden, or other place, or on board any ship, vessel, barge, boat, or other craft, by warrant under his hand and seal, to cause every such dwelling-house, warehouse, workshop, outhouse, yard, garden, or place, ship, vessel, barge, boat, or other craft, in whatsoever county, division, city, town corporate, liberty, or place, the same or any of them shall be, (in case such warrant shall be granted by a commissioner as aforesaid,) to be searched in the day-time, by any police officer, constable, headborough, or other peace officer, either of the county, division, city, town corporate, liberty, or place in which the premises, ship, vessel, barge, boat, or other craft shall be, or in which the commissioner granting such warrant (if granted by a commissioner) shall then reside; and in case any stores or goods marked as hereinbefore, or in the said recited Act of the ninth and tenth years of King *William* the Third, is mentioned, shall upon such search be found, to cause the same, and the offender or offenders, to be brought before such commissioner or justice of the peace, who is hereby required to commit or bind over, or otherwise to deal with such offender or offenders, according to law, for such his or their offence; and that in case, upon any such search, or upon any seizure whatsoever of stores or goods, marked as aforesaid, any naval, ordnance, or victualling stores, not so marked as aforesaid, shall be found, which may reasonably be suspected to belong to his Majesty, the party or parties in whose possession or keeping the same shall be found, shall be required to give to the commissioner or justice of the peace respectively, before whom the said stores or goods shall and may be brought, an account to the satisfaction of such commissioner or justice, that the same were not embezzled or stolen from any of his Majesty's ships or vessels, yards, storehouses, or other places, or that if the same were embezzled or stolen, the same had come to the possession of the said party or parties honestly, and without any knowledge or suspicion that the same had been embezzled or stolen; on failure whereof, by a reasonable time to be set by such commissioner or justice of the peace, the said stores or goods shall thereupon become forfeited, and such party or parties shall be deemed and adjudged guilty of a misdemeanor.

made that there is reason to suspect stores belonging to his Majesty are concealed. If any stores or goods (marked as hereinbefore, or in the recited Act of 9 and 10 Gul. III. mentioned) shall be found, the offender shall be dealt with according to law; and if, upon such search, or any seizure of stores or goods marked as aforesaid, any not marked shall be found suspected to belong to his Majesty, and the party shall not give a satisfactory account thereof, they shall be forfeited, and he shall be deemed guilty of a misdemeanor.

XII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for any person or persons deputed or appointed by the principal officers or commissioners of the navy, ordnance, or victualling, or any three of them respectively, at any time or times from and after the passing of this Act, to stop, search, and detain in some place of safety, any barge, boat, or other craft, which there shall be reason to suspect doth contain any naval, ordnance, or victualling stores, ropes, tackle, apparel, furniture, arms, ammunition, materials, and things stolen, embezzled, or unlawfully procured from or out of any of his Majesty's ships or vessels, yards, storehouses, or other places, and also to apprehend and detain, or cause to be apprehended and detained, any person or persons who may be reasonably suspected of having or conveying any such stores or other things in such barge, boat, or craft, and such person or persons so apprehended shall be (as soon as conveniently may be) conveyed before any commissioner of the navy, ordnance, or victualling for the time being, or before one or more justice or justices of the peace for the county, division, city, town corporate, liberty, or place in which such seizure shall be made, together with the stores, ropes, tackle, apparel, furniture, arms, ammunition, materials and things so found in such boat or other craft; which said commissioner or justice is hereby required to commit or bind over, or otherwise to deal with such person or persons according to law, in respect to any of the said last-mentioned stores and things which shall be so marked as aforesaid; and in respect to any of such stores and things which shall not be so marked, but which shall nevertheless be reasonably suspected to be the property of his Majesty, the said person or persons on whom the same shall be found shall be required to give an account, to the satisfaction of such

Persons deputed by the commissioners of the navy, &c. may detain any craft in which may be suspected to be contained any articles stolen from his Majesty's vessels, &c. and the parties; who shall be dealt with according to law respecting marked stores, and those not marked, suspected to belong to his Majesty, and not satisfactorily accounted for, shall be forfeited, and the party deemed

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commissioner or justice, that the same were not embezzled or stolen as aforesaid, or that if they were embezzled or stolen, the same had come to his or their possession honestly, and without any knowledge or suspicion that the same had been embezzled or stolen; on failure whereof, by a reasonable time to be set as aforesaid*, the said last-mentioned stores or things shall thereupon become forfeited, and the said person or persons so apprehended shall be deemed and adjudged guilty of a misdemeanor; and in case the said person or persons shall be convicted of stealing, embezzling, or unlawfully having in his, her, or their possession, any of the said stores or things which shall be so marked as aforesaid, or shall be adjudged guilty of a misdemeanor for not giving a satisfactory account, as aforesaid, with respect to such of the said stores or things as shall not be so marked as aforesaid, such barge, boat, or other craft in which such stores or things, or any of them, shall be found, with its tackle, apparel, and furniture, shall, upon such conviction or adjudication, become and be adjudged by such commissioner or justice forfeited, and shall be disposed of in manner hereinafter mentioned†.

guilty of a misdemeanor.

*[Sec § 11.]

If the persons be convicted of stealing marked articles, or adjudged guilty of a misdemeanor with respect to unmarked ones, the craft in which found shall be forfeited.

†[§ 15.]

XIII. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any person or persons deputed or appointed as aforesaid, or any police officer, constable, headborough, or other peace officer, or any beadle or watchman, (during such time as he shall be on duty,) of every parish and place where he shall be an officer, to apprehend and detain, or cause to be apprehended and detained, all and every person and persons who may reasonably be suspected of having or carrying, or any ways conveying any naval, ordnance, or victualling stores, ropes, tackle, apparel, furniture, arms, ammunition, materials, and things stolen or unlawfully procured from or out of any of his Majesty's ships or vessels, yards, storehouses, or other places, and also to seize and detain in some place of safety, such stores, materials, or things as last aforesaid; and as soon as conveniently may be, to convey, or cause the person or persons so apprehended to be conveyed before any commissioner of the navy, ordnance, or victualling, or before any one or more justice or justices of the peace for any county, division, city, town corporate, liberty, or place in or near to the place of seizure, together with the said stores and other things; and such and the like proceedings shall and may be had and taken against the said person or persons, in respect of such last-mentioned stores or things, whether marked or not marked, and such forfeiture be incurred, and adjudication made, as are above directed with respect to stores found in any barge, boat, or other craft as aforesaid.

Persons so deputed, or any police or peace officer, may apprehend persons suspected of having articles stolen from his Majesty's vessels, &c. and may seize the articles, and convey them and the parties before a justice, and the like proceedings shall be had with respect to stores found in any craft.

XIV. And be it further enacted by the authority aforesaid, That all and every the stores, ropes, tackle, apparel, furniture, arms, ammunition, materials, and things, which are hereinbefore declared to be forfeited on the party or parties not giving to the commissioner or justice a satisfactory account that the same were not embezzled or stolen as aforesaid, shall be forthwith returned into his Majesty's store, and shall be applied for the use and benefit of his Majesty, his heirs and successors, unless proof shall be made within three calendar months next following such seizure, to the satisfaction of such commissioner or justice of the peace, that the same stores and other things are the property of any other person or persons; in which case the said commissioner or justice shall cause the same to be forthwith delivered up to such person or persons, on his or their giving a proper receipt or discharge for the same, and paying the reasonable costs and charges, (to be set by such commissioner or justice,) attending the conveyance thereof to and from his Majesty's store, and the warehousing or safe custody thereof from the time of the seizure.

Articles herein declared to be forfeited on the parties not giving a satisfactory account of them, shall be returned into his Majesty's stores, and applied for his use, unless proof be made within three months to the contrary.

XV. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for such commissioner or justice of the peace respectively, by whom any barge, boat, or other craft shall be adjudged to be forfeited, in pursuance of this Act, and he is hereby authorized and required forthwith, after such adjudication, to issue his warrant to the collector, or other chief officer of the customs, at the port at or nearest to the place where such seizure shall be made, for the sale of such barge, boat, or other craft; which said collector or other chief officer, by virtue there-

The commissioner or justice by whom any craft shall

of, shall, and is hereby authorized and required, within one month then next following, to cause such barge, boat, or other craft, together with its tackle, apparel, and furniture, to be publickly sold to the highest bidder, notice of which sale shall be given in some or one of the publick papers in circulation in the city, town corporate, or place where such sale shall be made; and the money arising from such sale, after payment of the reasonable expences and charges attending the same, and of securing such barge, boat, or other craft, from the time of the seizure thereof (to be ascertained by such commissioner or justice of the peace), shall thereupon be forthwith paid by such collector or other officer of the customs, into the hands of such commissioner or justice of the peace respectively, and be by such commissioner or justice, within one calendar month then next following, paid and disposed of in the manner following; (that is to say,) one moiety thereof to the person or persons (or his or their representatives, if dead) who shall have made seizure of such barge, boat, or other craft, and the other moiety thereof to the treasurer of his Majesty's navy for the time being (in case the stores seized shall be naval or victualling stores), to be by him applied in such and the same manner as the monies arising from the sale of old stores in his Majesty's dock-yards now are, or for the time being shall be applicable; and in case the stores seized shall be ordnance stores, then the said other moiety shall be paid to the treasurer of his Majesty's ordnance for the time being, to be by him applied in such manner, for the use of his Majesty, as the master-general and principal officers of his Majesty's ordnance for the time being shall order and direct.

be adjudged to be forfeited, shall issue his warrant to the officer of the customs for the sale thereof, who shall cause it and the furniture to be publickly sold, and the produce shall be paid to the commissioner or justice, and disposed of, one half to the seizor of the craft, and the other to the navy board, &c.

XVI. And be it further enacted by the authority aforesaid, That every person deemed and adjudged guilty of any of the misdemeanors aforesaid, before any commissioner or justice of the peace as aforesaid, shall for every such misdemeanor forfeit, for the first offence, the sum of forty shillings; for the second offence, the sum of five pounds; and for the third and every subsequent offence, the sum of ten pounds, over and above the other forfeitures above mentioned; all which said respective forfeitures shall and may be levied by distress and sale of the goods and chattels of every such offender, (rendering to him or them the overplus, after the charges of the said distress and sale deducted,) by warrant under the hand and seal of such commissioner or justice of the peace, before whom such offender was convicted, directed to any constable or other peace officer of the county, division, city, town corporate, liberty, or place, and shall be disposed of in manner following; (that is to say,) one moiety to the person or persons apprehending such offender or offenders, or giving information, as the case shall be, and the other moiety thereof to the treasurer of the navy or ordnance for the time being, as the case may require, to be applied as before mentioned; and in case the constable or other peace officer to whom such warrant shall be directed, shall return to such commissioner or justice of the peace, that the offenders or offender named therein have not or hath not any goods or chattels in his county or constablewick, whereby he can levy the said penalty, (which return the said constable or other peace officer is hereby required, in that case, to make within a reasonable time, to be set by the said commissioner or justice of the peace, and during which time the said offenders or offender shall be kept in safe custody by the order of such commissioner or justice of the peace,) then and in such case the said commissioner or justice shall, and he is hereby required, by warrant under his hand and seal, directed as aforesaid, to cause such offenders or offender to be committed to the common gaol of the county, division, city, town corporate, liberty, or place, in which such seizure shall have been made, there to remain without bail or mainprize for the space of three calendar months, unless such penalty shall be sooner paid.

Persons guilty of misdemeanors shall forfeit for the first offence 40*s.* for the second 5*l.* for the third 10*l.* which may be levied by distress, to be applied, one half to the informer, and one half to the navy board, &c. and if distress cannot be found, the offender (who shall be kept in custody) shall be committed for three months.

XVII. And be it further enacted, That every adjudication in any of the said misdemeanors shall be certified by the commissioner or justice of the peace making the same, to the next general or quarter-sessions of the peace for the county, division, city, town corporate, or place in which such seizure shall be made, to be filed and entered amongst the records of the said session; and such conviction shall not be set aside or quashed for want of form, nor be liable to be removed by certiorari, advocation, or suspen-

Adjudications in misdemeanors shall be certified to the next general quarter-sessions, and shall be final.

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sion, into any other court, but shall be deemed and taken to be final to all intents and purposes whatsoever.

XVIII. 'And whereas it might tend to prevent the commission of offences, if power were given to the commissioners of his Majesty's navy, ordnance, and victualling, and his Majesty's justices of the peace out of sessions, to hear and determine offences in a summary way, in cases where the stores found are of small value, and to fine or otherwise punish the offenders accordingly:' Be it therefore enacted by the authority aforesaid, That from and after the passing of this Act, it shall and may be lawful to and for any principal officer or commissioner of the navy, ordnance, or victualling for the time being, or any justice of the peace for any county, division, city, town corporate, liberty, or place within this kingdom, to hear and determine any complaint against any person or persons, (not being a contractor or contractors, or employed as aforesaid,) for unlawfully selling or delivering, or causing or procuring to be sold or delivered, or for receiving or having in his, her, or their custody, possession, or keeping, or for concealing any stores of war, or naval, ordnance, or victualling stores or goods, marked with such marks respectively as are hereinbefore mentioned, of any value in the whole not exceeding twenty shillings; which said commissioner or justice respectively is hereby authorized and required, upon any information exhibited or complaint made in that behalf, at any time within three calendar months next after any such offence shall have been committed, to cause the party or parties accused to be apprehended and brought before him; or if he, she, or they shall have absconded, or cannot be found, then to be summoned to appear before such commissioner or justice, by a notice or summons left at his, her, or their last or usual place of abode; and also to cause the witnesses on either side to be summoned; and such commissioner or justice shall examine into the matter of fact, and upon due proof made thereof, either by the voluntary confession of the party or parties, or by the oath of one or more credible witness or witnesses, (which oath the said commissioner or justice respectively is hereby authorized to administer,) give judgment or sentence accordingly; and in case the party or parties accused shall be convicted of such offence, then it shall and may be lawful to and for such commissioner or justice of the peace respectively to inflict a fine of ten pounds upon him, her, or them, for such his, her, or their offence; which said fine so inflicted shall be divided and distributed, one moiety thereof to the informer or discoverer of the offence, and the other moiety thereof (the necessary charges for the recovery thereof being first deducted) to the treasurer of his Majesty's navy or ordnance, as the case may be, to be by him applied in such manner as hereinbefore mentioned, with respect to the produce of barges, boats, or other craft seized and sold under the authority of this Act, and to award and issue out his warrant under his hand and seal, for levying such fine so adjudged on the goods of the offender or offenders, and to cause sale to be made thereof, for payment of such fine and the reasonable charges of distress, (to be judged of by such commissioner or justice respectively,) in case they shall not be redeemed within six days, rendering to the party the overplus, if any; and where sufficient goods of the party cannot be found to answer the said fine, to commit the said offender or offenders to the common gaol of the county, division, city, town corporate, liberty, or place, for the space of three calendar months, unless such fine shall be sooner paid, or in lieu of such fine, to cause such offender or offenders to be imprisoned and kept to hard labour in the house of correction for the space of three calendar months, as to such commissioner or justice of the peace respectively shall be thought fit; and every such commissioner or justice shall cause the amount of every such last-mentioned moiety of fine which he shall so receive, and also the moiety of every sum arising from the sale of any barge, boat, or other craft sold under the authority of this Act, and paid into his hands as aforesaid, to be paid into the hands of the said treasurer of the navy or ordnance, within thirty days after the expiration of the year in which such fines shall be received by him, or in default thereof, such commissioner or justice respectively shall forfeit the sum of fifty pounds, to be recovered with double costs of suit, by any

Any commissioner of the navy, &c. or justice of the peace, may determine any complaint (against persons not being contractors, &c.) for unlawfully selling or receiving stores not exceeding 20*s.* value, and may fine the offender 10*l.*

Fine may be levied by distress, and applied, one half to the informer, and one half to the navy board, &c. See § 15.

If sufficient distress cannot be found, the offender may be committed to the common gaol, or in lieu of the fine, may be kept to hard labour in the house of correction for three months.

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person or persons who shall sue for the same by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at *Westminster*, or Court of Exchequer in *Scotland*, wherein no essoign, protection, or wager of law, nor more than one imparlance shall be allowed; one moiety of which last mentioned fine shall go to his Majesty, his heirs and successors, and the other moiety thereof to him or them who shall sue for the same as aforesaid.

How the moieties payable to the navy board, &c.

[XIX. Fine of 10*l.* may be mitigated to one half, besides expences.]

XX. Provided also, and be it enacted, That in case such commissioner or justice of the peace shall, upon the hearing and determining of such complaint as aforesaid, adjudge the offender or offenders, in lieu of a fine, to be imprisoned and kept to hard labour as aforesaid, that then the informer, or person or persons who shall have discovered such offender or offenders, shall have and receive, as a reward for such his, her, or their discovery, the sum of five pounds for every such offence so discovered; and the principal officers and commissioners of his Majesty's navy, ordnance, or victualling, as the case may require, shall cause the said reward of five pounds to be paid by the treasurer of the navy or ordnance respectively for the time being, out of any publick money in his hands, upon such informer or other person producing to them a certificate under the hand and seal of the commissioner or justice of the peace who shall have convicted such offender or offenders as aforesaid, certifying such conviction and the punishment which he hath inflicted upon the offender or offenders; and the name or names of the person or persons who in his judgment is entitled, and in what proportion or proportions to such reward; which certificate the said commissioner or justice of the peace respectively is hereby required to give without fee or reward; and the money paid by any such treasurer on account of such last mentioned rewards shall be allowed in his accounts, and he shall be discharged thereof accordingly; any law, custom, or usage to the contrary thereof in anywise notwithstanding: Provided also, That no such summary proceeding as before mentioned shall be had before any justice of the peace under the authority of this Act, without the consent in writing of the principal officers or commissioners of his Majesty's navy, ordnance, or victualling for the time being, or one of them, for that purpose first had and obtained; and that every adjudication or sentence to be had or given without such consent as aforesaid, shall be null and void to all intents and purposes whatsoever.

shall be paid in by the justices.

If in lieu of a fine the offender be imprisoned, the informer shall receive 5*l.* reward from the navy board, &c. upon production of a certificate from the commissioners or justices who convicted him.

No summary proceeding to be had before any justice without the consent of the commissioners of the navy, &c.

[XXI. Persons thinking themselves aggrieved by any judgment touching stores under the value of 20*s.* may appeal to the quarter sessions.]

[XXII. Convictions shall be made out in the following form, or to the like effect:

Form of conviction.

'BE it remembered, That on the day of in the year of 'our Lord *A. B.* of in the of 'was convicted before me *C. D.* one of the commissioners of his Majesty's '[*or*, one of his Majesty's justices of the peace for the 'of *as the case may be*] for that the said *A. B.* on the 'day of now last past, at the of in the said 'of did [*here state the offence against the Act*] con-'trary to the statute in such case made and provided.

'Given under my hand and seal the day of in the year of 'our Lord

Convictions to be returned to the next general quarter sessions to be filed, and shall not be removed by certiorari, &c.]

XXIII. And be it further enacted, That if any person or persons shall be summoned as a witness or witnesses, to give evidence before such commissioner, or justice or justices of the peace, touching any of the matters relative to this Act, either on the part of the prosecutor or the party or parties accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such his, her, or their neglect or refusal, to be allowed by such commissioner or justice or justices of the peace before whom the seizure, complaint, or prosecution shall be depending, that then every such person shall forfeit for

Witnesses neglecting to attend shall forfeit 10*l.*

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every such offence the sum of ten pounds, to be recovered, levied, and paid and applied, in such manner, and by such means as is above directed with respect to fines on summary convictions.

Nothing herein shall prevent parties accused of selling or receiving stores under the value of 20*s.* from being prosecuted as receivers of stolen goods, so as the offender be not twice punished for the same offence.

XXIV. Provided always, and it is hereby enacted and declared, That nothing herein-before contained which gives to any commissioner or justice of the peace power or authority to hear and determine offences in a summary way, shall extend or be deemed, construed, or taken to extend, to prevent the party or parties accused of selling or delivering, or of having in his, her, or their custody, possession, or keeping, or of receiving or concealing any of the stores marked as above mentioned, under the value of twenty shillings, from being prosecuted as receivers of stolen goods under this Act, or for unlawfully having the same in his, her, or their custody, or concealing the same under the said recited Acts of the ninth and tenth years of the reign of King *William* the Third, the ninth year of the reign of King *George* the First, or the seventeenth year of the reign of King *George* the Second, in any court of record, oyer and terminer, or otherwise, as they might have been if no such power or authority had been given; or to take away from any person or court whatsoever any power, right, jurisdiction, pre-eminence, or authority, which he or they, or any of them, ought lawfully to have had and enjoyed for the hearing and determining of such offences, in case no such power or authority to hear and determine the same in a summary way had been given, so as that the same person shall not be punished twice for the same offence.

The commissioners of the navy, &c. may sell marked stores, and the buyers may keep them, without incurring any penalty, on producing a certificate of their having bought them.

XXV. And be it further enacted, That the said commissioners of the navy, ordnance, or victualling, for the time being, may sell and dispose of any of the stores aforesaid so marked as aforesaid, as they did or might have done before the making of this Act; and that such person or persons as heretofore have or shall hereafter buy any such stores or other stores so marked as aforesaid, of the said respective commissioners, may keep and enjoy the same, without incurring the penalty of this Act, or any law to the contrary whatsoever, upon producing a certificate or certificates, under the hand and seal of three or more of the said commissioners, that they bought such goods or stores from them at any time before they sold or delivered the same, or before the same were found in their custody, or a certificate from such person or persons as shall appear to have bought the said stores from them the said commissioners, that the stores so sold or delivered by them, or so found in their custody, were the stores or part of the stores so bought of the said commissioners as aforesaid, in which certificate or certificates, the quantities of such stores shall be expressed, and the time when and where bought of the said commissioners, who, or any three or more of them for the time being, and also the person or persons afterwards selling the same, are hereby empowered and directed from time to time to give such certificate to such person or persons as shall desire the same, and have bought and shall hereafter buy any of the aforesaid stores within thirty days after the sale and delivery thereof.

Penalty for giving or publishing false certificates 200*l.* and corporal punishment (as under § 2.)

XXVI. And be it further enacted by the authority aforesaid, That if any person or persons shall make, sign, or give any false certificate, bill of parcels, or other instrument, purporting the identity or the sale or disposal of any goods or stores as goods or stores so purchased of the said commissioners as aforesaid, or if any person or persons shall utter or publish any such false certificate, bill of parcels, or other instrument purporting as aforesaid, knowing the same to be false, every such offender, upon conviction thereof in due form of law, shall forfeit the sum of two hundred pounds, and be further corporally punished, as by this Act is directed with respect to persons having in their possession or concealing his Majesty's warlike, naval, or ordnance stores, contrary to the said Act of the ninth and tenth years of King *William* the Third; one moiety of which penalty shall be to his Majesty, his heirs and successors, and the other moiety thereof, with full costs of suit, to the informer, to be recovered in such manner as the penalty of two hundred pounds, inflicted by the said last mentioned Act, is by that Act or any law now in force, made recoverable.

Penalty half to the King and half to the informer.

If any person shall be sued

XXVII. And be it further enacted, That in case any person or persons shall be sued or prosecuted for or by reason of their seizing any such stores

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or goods as aforesaid, or any barge, boat, or other craft in which the same shall have been deposited, and upon the trial of the issue shall make proof, that such goods or stores so seized by him or them, or any part thereof, were so marked as aforesaid, or if not so marked, might reasonably be suspected to belong to his Majesty, or in case the plaintiff or plaintiffs, in such action or suit, shall not at such trial make good proof that he or they was or were so employed, or had such certificate as aforesaid, and that he or they did shew such certificate to the defendant or defendants before the action or suit was commenced or brought, and that such defendant or defendants did not thereupon deliver or offer to deliver back unto the plaintiff or plaintiffs, at their request, all such goods and stores as aforesaid, and the barge, boat, or other craft (if any) in which the same had been deposited, in as good plight and condition as they were at the time of the seizure thereof, such defendant or defendants shall be acquitted and found not guilty thereupon.

for any seizure, and shall prove on the trial that the stores were marked, or if not marked might be suspected to belong to his Majesty, or if the plaintiff shall not prove that he had a certificate, &c. the defendant shall be acquitted.

[XXVIII. The commissioners shall have the benefit given to justices of the peace by 7 Jac. I. c. 5; 21 Jac. I. c. 12; and 24 Geo. II. c. 44; and the peace officers acting under them shall have the protection of the said Acts.]

[XXIX. Act to extend to Scotland.]

[XXX. Offenders in Scotland to be tried according to the forms in trials for theft or reset of theft.]

[XXXI. Persons accused of offences in Scotland, for which in England a summary mode of trial is established, may be so tried there.]

[XXXII. At whose instance summary prosecutions in Scotland shall proceed.]

[XXXIII. Penalties in Scotland to be applied as in England.]

[XXXIV. In cases where in England suits may be instituted in any Court of Record at Westminster, in similar cases in Scotland they may be instituted in the Court of Exchequer there.]

[XXXV. In questions in Scotland upon matters not herein provided for, the laws there to be observed.]

[XXXVI. If any person shall forswear himself, he shall be liable to the penalties of wilful perjury.]

[No. VIII.] 54 George III. c. 60.—An Act for the better preventing the Embezzlement of His Majesty's Cordage. —[27th *May* 1814.]

No. VIII. 54 Geo. III. c. 60.

'WHEREAS the marks usually put to his Majesty's cordage are frequently taken out of the same for the purpose of concealing his Majesty's property therein; and it is expedient that other marks should be used in his Majesty's cordage for the purpose of denoting his Majesty's property therein;' Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the passing of this Act, all and every the pains, penalties, forfeitures, regulations, restrictions, powers, provisions, matters and things, in respect to the making, selling, delivering, receiving, having in possession, and concealing any cordage wrought either with a white thread laid the contrary way, or with a twine laid to the contrary way, mentioned and contained in an Act passed in the ninth and tenth years of the reign of King *William* the Third, intituled *An Act for the better preventing the Embezzlement of his Majesty's Stores of War; and preventing Cheats, Frauds and Abuses in paying Seamen's Wages;* and also in an Act passed in the thirty-ninth and fortieth years of the reign of his present Majesty, intituled *An Act for the better preventing the Embezzlement of his Majesty's Naval, Ordnance and Victualling Stores;* or in any other Act or Acts of Parliament; shall extend to the making, selling, delivering, receiving, having in possession and concealing any cordage wrought with one or more worsted threads, as fully and effectually to all intents and purposes as if the same several pains, penalties, forfeitures, re-

Provisions of 9 & 10 W. 3. c. 41. and 39 & 40 G. 3. c. 89. extended to cordage worked with worsted threads.

No. VIII. 54 Geo. III. c. 60.

gulations, restrictions, powers, provisions, matters and things were herein and hereby repeated and re-enacted in respect to such last mentioned cordage: Provided always, that nothing herein contained shall extend or be construed to extend to repeal any of the statutes now in force, or any of the clauses, matters, and things therein contained, in respect to cordage wrought either with a white thread laid the contrary way, or with a twine laid to the contrary way, but that the same marks may be continued to be used to denote his Majesty's property in such cordage in the same manner as if this Act had not been passed.

Proviso.

[No. IX.] 55 George III. c. 127.—An Act to repeal an Act of the Fifty-third Year of his present Majesty, for preventing the Embezzlement of Stores; and to extend the Provisions of the several Acts relating to his Majesty's Naval, Ordnance, and Victualling Stores, and to all other Public Stores.—[29*th June*, 1815.]

No. IX. 55 Geo. III. c. 127.

'WHEREAS by an Act passed in the ninth and tenth year of the reign of King *William* the Third, intituled, *An Act for the better preventing the Embezzlement of his Majesty's Stores of War; and preventing Cheats, Frauds, and Abuses in paying Seamen's Wages*; and by another Act passed in the ninth year of the reign of King *George* the First, intituled, *An Act for continuing some Laws, and reviving others therein mentioned; for exempting Apothecaries from serving Parish and Ward Offices, and upon Juries, and relating to Jurors; and to the Payment of Seamen's Wages; and the Preservation of Naval Stores of War; and concerning the Militia and Trophy Money; and against clandestine Running of unaccustomed Goods, and for the more effectual preventing Frauds relating to the Customs, and Frauds in mixing Silk with Stuff to be exported*; and by another Act passed in the seventeenth year of the reign of King *George* the Second, intituled, *An Act to continue the several Laws therein mentioned for preventing Theft and Rapine on the Northern Borders of* England; *for the more effectual punishing wicked and evil-disposed Persons going armed in disguise, and doing Injuries and Violence to the Persons and Properties of his Majesty's Subjects, and for the more speedy bringing the Offenders to Justice; for continuing two Clauses to prevent the cutting or breaking down the Bank of any River, or Sea Bank, and to prevent the malicious cutting Hopbinds; and for the more effectual Punishment of Persons maliciously setting on Fire any Mine, Pit, or Delph of Coal, or Cannel Coal; and of Persons unlawfully hunting or taking any Red or Fallow Deer in Forests or Chases, or beating or wounding the Keepers or other Officers in Forests, Chases, or Parks; and for granting a Liberty to carry Sugars of the Growth, Produce, or Manufacture of any of his Majesty's Sugar Colonies in America, from the said Colonies directly to Foreign Parts in Ships built in Great Britain, and navigated according to Law; and to explain two Acts relating to the Prosecution of Offenders for embezzling Naval Stores, or Stores of War; and to prevent the retailing of Wine within either of the Universities in that part of Great Britain called* England *without Licence*; and by another Act, passed in the fortieth year of the reign of his present Majesty, intituled, *An Act for the better preventing the Embezzlement of his Majesty's Naval, Ordnance, and Victualling Stores*; divers provisions were made for preventing the embezzlement of his Majesty's naval, ordnance, and victualling stores: And whereas by another Act, passed in the fifty-second year of the reign of his present Majesty, intituled, *An Act for extending the Laws for preventing the Embezzlement of his Majesty's Naval, Ordnance, and Victualling Stores to* Ireland; the said recited Acts, so far as the same severally relate to his Majesty's naval, ordnance, and victualling stores therein respectively mentioned, were extended to *Ireland*: And whereas by another Act passed in the fifty-third year of the reign of his present Majesty, intituled, *An Act to extend the Provisions of an Act of the Ninth and Tenth Year of King*

[9 & 10 W. 3. c. 41. § 1, 2, 4, 5, 8.

9 G. 1. c. 8. § 3, 4.

17 G. 2. c. 40. § 10.

39 and 40 G. 3. c. 89.

52 G. 3. c. 12.

53 G. 3. c. 126.]

No. IX.
55 Geo. III.
c. 127.

'William *the Third, for preventing the Embezzlement of Stores of War to all* '*Public Stores;* it was enacted that the said recited Act of the ninth and 'tenth year of King *William* the Third should extend to all public stores 'whatsoever: And whereas by reason of divers omissions and imperfec- 'tions in the said recited Act of the fifty-third year of the reign of his 'present Majesty, it is expedient that the same should be repealed, and 'such further provisions made in lieu thereof as hereinafter mentioned;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the passing of this Act, the said recited Act of the fifty-third year of the reign of his present Majesty shall be and the same is hereby repealed, to all intents and purposes whatsoever, except as to any offence or offences which may have been committed against the said last mentioned Act and the prosecution and punishment of any person or persons for the same.

53 G. 3. c. 126. repealed.

II. And be it further enacted, That, from and after the passing of this Act, not only the said recited Act of the ninth and tenth year of the reign of King *William* the Third, but also the said several other Acts of the ninth year of the reign of King *George* the First, the seventeenth year of the reign of King *George* the Second, and the fortieth year of the reign of his present Majesty, herein-before recited, so far as the same severally relate to his Majesty's naval, ordnance and victualling stores, therein respectively mentioned, and all the pains, penalties, forfeitures, regulations, restrictions, powers, provisions, clauses, matters and things therein respectively contained, relating to his Majesty's naval, ordnance, and victualling stores, therein respectively mentioned, shall extend and be construed to extend to all public stores whatsoever under the care, superintendance or controul of any officer or person in the service of his Majesty, his heirs or successors, or employed in any public department or office, either marked with the marks or any of them in the said recited Acts or any of them specified, or with the broad arrow, and the letters B. O., or with the crown and the broad arrow, or with his Majesty's arms, or with the letters G. R., to denote the property of his Majesty, his heirs or successors, therein, and to all and every person and persons, not authorised by the proper officer or officers, person or persons in his Majesty's service, in that behalf so to do, using any such marks or making any goods marked with such marks, or any of them, and to all and every person and persons in whose custody, possession, or keeping any such public stores so marked as aforesaid shall be found, or who shall willingly or knowingly receive or have in his, her, or their custody, possession, or keeping, or who shall conceal any such public stores so marked as aforesaid, unless such person or persons shall upon his, her, or their trial produce a certificate or certificates under the hand or hands of the proper officer or officers, persons or person in his Majesty's service authorised to grant the same, of such and the like nature as the certificate, in the said recited Acts of the ninth and tenth year of the reign of King *William* the Third, and fortieth year of the reign of his present Majesty mentioned, and to all and every person and persons who shall wilfully and fraudulently destroy, beat out, take out, cut out, deface, obliterate or erase, wholly or in part, any of the said marks, or cause, procure, employ, or direct any other persons or person so to do, for the purpose of concealing the property of his Majesty, his heirs or successors, therein, as fully and effectually, to all intents and purposes, as if all the same several pains, penalties, forfeitures, regulations, restrictions, powers, provisions, clauses, matters and things, in the said several Acts contained, so far as the same severally relate to his Majesty's naval, ordnance, and victualling stores, and the punishment of persons offending in manner therein mentioned, were herein and hereby severally repealed and re-enacted in respect to all other public stores whatsoever.

9 and 10 W. 3. c. 41. § 1, 2, 4, 5, 8.
9 G. 1. c. 8. § 3, 4.
17 G. 2. c. 40. § 10.
39 and 40 G. 3. c. 89.
to extend to all public stores, and to all persons intermeddling therewith not authorized.
9 & 10 W. 3. c. 41. § 2.
39 and 40 G. 3. c. 89. § 25.

PART V.—CLASS XI.

FALSE PRETENCES.

[No. I.] 33 Henry VIII.-c. 1.—A Bill against them that counterfeit Letters or privy Tokens to receive Money or Goods in other Men's Names.

No. I. 33 H. VIII. c. 1.

'FORASMUCH as many light and evil-disposed persons, not minding to get their livings by truth, according to the laws of this realm, but 'compassing and devising daily how they may unlawfully obtain and get 'into their hands and possession goods, cattels, and jewels of other per-'sons, for the maintenance of their unthrifty living, and also knowing that 'if they come to any of the same goods, cattels, and jewels by stealth, 'that then they, being thereof lawfully convicted according to the laws of 'this realm, shall die therefore; have now of late falsly and deceitfully 'contrived, devised, and imagined privy tokens, and counterfeit letters in 'other men's names, unto divers persons their special friends and acquaint-'ances, for the obtaining of money, goods, cattels, and jewels of the same 'persons, their friends and acquaintances, by colour whereof the said light 'and evil-disposed persons have deceitfully and unlawfully obtained and 'gotten great substance of money, goods, cattels and jewels into their 'hands and possession, contrary to right and conscience:' (1)

II. For reformation whereof, be it ordained and enacted by authority of this present Parliament, That if any person or persons, of what estate or degree soever he or they be, at any time after the first day of *April* next coming, falsly and deceitfully obtain or get into his or their hands or possession, any money, goods, cattels, jewels, or other things of any other person or persons, by colour and means of any such false (2) token or counterfeit letter made in any other man's name (3), as is aforesaid, that then every person and persons so offending, and being thereof lawfully convict, by witnesses taken before the lord chancellor of *England* for the time being, or by examination of witnesses, or confession taken in the Star-Chamber at *Westminster* before the King's most honourable council, or before the justices of assize in their circuits for the time being, or before the justices of peace within any part of the King's dominions in their general sessions, or by action in any of the King's courts of record, shall have and suffer such correction and punishment, by imprisonment of his body, setting upon the pillory, or otherwise by any corporal pain (except pains of death) as shall be unto him or them limited, adjudged, or appointed by the person or persons before whom he shall be so convict of the said offences, or of any of them.

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(1) It has been sometimes said, that this Act was made only in affirmance of the common law, which is agreed to be true as to counterfeit letters; and it is also agreed, that cheats, by means of false tokens of a public nature, were an offence at common law; but the cheating by false privy tokens, seems to be a newly created offence. See the observations upon this subject, E. P. C. ch. 18. § 9.

(2) This, by reference to the preamble, means privy token; which means a key, a ring, &c. or some other real visible mark or thing, and not a mere false affirmation or promise; R. *v.* Munez, 2 Str. 1127.

(3) A draft in the defendant's own name, upon a banker on whom he had no authority to draw, is not within the Act; R. *v.* Lava, 6 T. R. 565.

No. I.
33 H. VIII. c. 1.

III. And be it further enacted by the authority aforesaid, That as well the justices of assize for the time being, as also two justices of peace in every county, whereof the one to be of the *Quorum*, shall have full power and authority to call and convent, by process or otherwise, to the said assizes or general sessions, any person or persons being suspected of any of the offences aforesaid, and to commit him or them to ward, or to let him or them to bail, till the next assizes or general sessions, there to be examined, and further to be ordered by their discretions, as is abovesaid.

The justices' authority touching the said offenders.

IV. Provided always, and be it further enacted by authority aforesaid, That justices of the peace within every city, borough, town, and franchise within this realm, or other the King's dominions, shall have like jurisdiction, power, and authority, at their general sessions and otherwise, to do and execute all and every thing and things in all points, as other justices of the assizes in their circuits, or justices of the peace in the counties, by virtue of this Act, be limited and appointed to do and execute, for the punishment and correction of like offenders, as by this foresaid Act is specified and declared: Saving to the party grieved by such deceit, such remedy by way of action or otherwise, of and for the same money, goods, cattels, jewels, or other things so obtained, as he might have had if this Act had never been had ne made; any thing in the same contained to the contrary in any wise notwithstanding.

The authority of justices of peace in cities, &c.

The remedy of the party grieved.

V. Provided always, and be it further enacted by the authority aforesaid, That the King's Highness council of his town of *Calice*, or three of them for the time being, shall have such and like authority for the examination, bailment, and punishment of such offender or offenders, and for such offences hereafter to be committed and done within the town and marches of *Calice*, and county of *Guisnes*, as the aforesaid justices of assize or justices of peace have by force of this Act within their jurisdictions and authorities.

The King's council of Calice.

[No. II.] 30 George II. c. 24.—An Act for the **more effectual Punishment of Persons who shall attain, or attempt to attain, Possession of Goods or Money, by false or untrue Pretences**; for preventing the unlawful pawning of Goods; for the easy Redemption of Goods pawned; and for preventing Gaming in Publick Houses by Journeymen, Labourers, Servants, and Apprentices.*

No. II.
30 Geo. II. c. 24.

'WHEREAS divers evil-disposed persons, to support their profligate way of life, have by various subtle stratagems, threats, and devices, fraudulently obtained divers sums of money, goods, wares, and merchandizes, to the great injury of industrious families, and to the manifest prejudice of trade and credit;' Therefore for the punishing all such offenders, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the twenty-ninth day of *September* one thousand seven hundred and fifty-seven, all persons who knowingly and designedly, by false pretence or pretences (1), shall obtain from any person or persons, money, goods, wares,

No certiorari lies on this stat.

Persons convicted of obtaining money, &c. by false pretences, &c.

* Sections 3 to 13, inclusive, relate to pawnbrokers, and have been superseded by later statutes. Sections 14 and 15, to gaming in public houses, for which see Pt. VI. Cl. I.; where see also Sect. 16. Sections 18, 19, and 21, relate to summary proceedings under the other branches of the Act. Section 23 to the protection of justices and peace officers acting in execution of the Act.

(1) A pretence that the defendant had laid a wager upon a race to be afterwards run, and obtaining twenty guineas as part of the bet, when in truth no such bet had been made, ruled to be within the Act, although objected that the representation related to a future transaction, respecting which enquiry might be made. Lord Kenyon—"The statute extends to every case where a party obtains money by falsely representing himself to be in a situation in which he was not; or by falsely representing any occurrence that had not happened, to which persons of ordinary caution

No. II. 30 Geo. II. c. 24.

or merchandizes, with intent to cheat or defraud any person or persons of the same; or shall knowingly send or deliver any letter or writing, with or without a name or names subscribed thereto, or signed with a fictitious name or names, letter or letters, threatening (1) to accuse any person of any crime punishable by law with death, transportation, pillory, or any other infamous punishment, with a view or intent to extort or gain money (2), goods, wares, or merchandizes, from the person or persons so threatened to be accused, shall be deemed offenders against law and the publick peace; and the court before whom such offender or offenders shall be tried, shall in case he, she, or they shall be convicted of any of the said offences, order such offender or offenders to be fined and imprisoned, or to be put in the pillory, or publickly whipped, or to be transported, as soon as conveniently may be (according to the laws made for transportation of felons) to some of his Majesty's colonies or plantations in *America*, for the term of seven years, as the court in which any such offender or offenders shall be convicted shall think fit and order.

may be punished by fine and imprisonment, or by pillory, &c.

Justices to enquire therein,

II. And be it further enacted by the authority aforesaid, That any justice or justices of the peace of the county, riding, division, city, liberty or

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might give credit." Buller J. mentioned a case before himself and Moreton C. J. at Chester, where the defendant was convicted for pretending that he had been employed by the Duke de Lauzun to take some horses from Ireland to London, and that he had been detained by contrary winds till his money was all spent; R. *v.* Young and others, 3 T. R. 98. A foreman supplied weekly with money to pay the other workmen their wages, upon delivering to the clerk an account of the money earned, delivering in an account in the words following:—"9th September, 1796, Shearmen 44*l.* 11*s.*" and it appearing that he made false entries in a book kept by him, of persons employed, so as to make up the sum stated, was ruled by all the judges to be guilty within the Act, as he would not have obtained the credit but by the false account delivered in; Witchell's Case, 1798, E. P. C. ch. 18. § 8. A carrier who had received goods under pretence of carrying them, and pretending that he had carried and delivered them, ruled to be within the Act; R. *v.* Airey, 2 East, 30. In R. *v.* Jackson, 3 Camp. 370. Bailey J. said it had been recently held by the judges, that it was an indictable offence fraudulently to obtain goods, by giving in payment a cheque upon a banker with whom the party keeps no cash, and which he knows will not be paid; and the prisoner was upon such fraud convicted, and sentenced to be transported. It is not sufficient to charge the obtaining by false pretences, without shewing what such pretences were; R. *v.* Mason, 2 T. R. 581. It is sufficient to state, that the defendant pretended—by means of which false pretence he obtained—and then to negative the truth of the pretences; R. *v.* Airey, ub. suprà. It is not sufficient to alledge, that he falsely pretended, and, by means of such false pretence, obtained, without expressly negativing the truth of the pretences by special averment; and all the judges held that the averment of the falsehood of pretences, must be made with the same particularity as in case of an indictment for forgery; R. *v.* Perrott, 2 M. and S. 379. The effect of this decision would seem not to be confined to the mere form of the indictment; for if the assignment of falsehood must be made with the same particularity as in an indictment for forgery, it would apparently follow, that there must be the same particularity in the original pretence, which is requisite in a judicial proceeding; the sufficiency or insufficiency of which is often determined upon the evidence of its containing so distinct an assertion, as to admit of forgery being assigned thereon; whereas in the cheats intended to be guarded against by the present Act, a great deal more is often understood than is positively expressed: for instance, to advert to Jackson's Case, suprà, there is no express and formal statement made by a person drawing a bill, that he has cash in the hands of the drawee; but the mere act of drawing the bill is considered as amounting to such a pretence: whereas in case of forgery, no indictment can be supported upon the mere understanding arising from any understanding or inferences, without there being in fact, as well as in allegation, an express and direct assertion of the facts charged to have been falsely sworn; in which respect there is a failure of that analogy between the respective cases, which, in the case of the King *v.* Perrott, seems to have been taken for granted as deciding the law.

(1) This Act does not repeal the provisions respecting threatening letters, by 9 Geo. I. c. 22. ante, Class VI. No. 35. See Note, ibid.; but the judges were of opinion that an indictment could not be supported on this Act, if there was a demand; Robinson's Case, Leach, Ca. 294. E. P. C. ch. 23. § 2. but this opinion can only be understood as applying to cases falling in other respects within the statute 9 Geo. I. and not to cases where the letter is delivered by the defendant, or signed with a real name.

(2) A letter written with intent to procure the delivering up of a promissory note of the defendant, does not support an indictment charging an intent to extort money; R. *v.* Major, Leach, Ca. 297; E. P. C. ch. 23. § 3.

No. II.
30 Geo. II. c. 24.

place, before whom any person or persons charged on oath, by any credible person or persons, with having committed any of the offences intended by this Act to be punished, shall be brought, shall examine by oath (which oath every such justice or justices is and are hereby empowered and required to administer) and such other lawful means as to any such justice or justices shall seem meet, touching the matters complained of, and deal with the offender or offenders according to law; and if the party or parties charged as being the offender or offenders, shall be committed to prison, or be admitted to bail, to answer the matters complained of at the next general or quarter-sessions of the peace, or next session of *Oyer* and *Terminer*, which shall be held for the county, riding, division, city, liberty or place wherein the offence shall be charged on oath to have been committed, then such justice or justices shall bind over the prosecutor and prosecutors of every such offender and offenders to appear at the next general or quarter-sessions of the peace, or next sessions of *Oyer* and *Terminer* which shall be held for the county, riding, division, city, liberty or place wherein the offence shall be charged to have been committed, by recognizance, in such reasonable sum of money as to such justice or justices shall seem requisite, to prosecute such offender and offenders with effect; and if any money, goods, wares or merchandizes fraudulently obtained, shall appear to such justice or justices to exceed the amount or value of twenty pounds, then the recognizance to be taken in that behalf from the prosecutor or prosecutors, shall be in not less than double the amount or value the same shall appear before any such justice or justices to be worth.

and to bind over the complainant.

Recognizance in proportion to the fraud.

XVII. And be it further enacted by the authority aforesaid, That no persons charged on oath with being guilty of any of the offences punishable by this Act, and which shall require bail, shall be admitted to bail before twenty-four hours' notice, at least, shall be proved by oath to have been given in writing to the prosecutor, of the names and places of abode of the persons proposed to be bail for any such offender or offenders, unless the bail offered shall be well known to the justice or justices, and he and they shall approve of them; and every such offender and offenders, who shall be bound over to the general quarter-sessions of the peace, or gaol delivery, of the county, city, or town wherein the offence charged on him shall have been committed, to answer any such offences punishable by this Act, shall be tried at such general or quarter-sessions of the peace, or sessions of *Oyer* and *Terminer* and gaol delivery which shall be held next after his, her, or their being apprehended, unless the Court shall think fit to put off the trial on just cause made out to them.

Offenders not admitted to bail, till notice, &c.

XX. And be it further enacted by the authority aforesaid, That no *Certiorari* shall be granted to remove any indictment, conviction or other proceedings had thereon in pursuance of this Act (1).

Certiorari.

(1) There can be no *Certiorari* on an indictment for obtaining money, &c. by false pretences, on affidavit that the party cannot have an impartial trial. It was urged that the section is confined to offences created by section 14; but the Court said, that there did not appear to be any reason, from the nature of the subject, why it should relate to one part more than another; R. v. Young, 2 T. R. 472.

[No. III.] 52 George III. c. 64.—An Act for extending the Provisions of an Act of the thirtieth Year of King *George* the Second, against Persons obtaining Money by false Pretences, to Persons so obtaining Bonds and other Securities.—[*9th June* 1812.]

No. III.
52 Geo. III. c. 64.
30 G. 2. c. 24. § 1.

'WHEREAS by an Act passed in the thirtieth year of his late Majesty, intituled, *An Act for the more effectual Punishment of Persons who shall attain or attempt to attain Possession of Goods or Money by false or untrue Pretences, for preventing the unlawful pawning of Goods, for the easy Redemption of Goods pawned, and for preventing of Gaming in Public*

No. III. 52 Geo. III. c. 64.

'*Houses by Journeymen, Labourers, Servants and Apprentices*, it was 'enacted, That all persons who knowingly and designedly, by false pre- 'tence or pretences, should obtain from any person or persons, money, 'goods, wares or merchandizes, with intent to cheat or defraud any per- 'son or persons of the same, or should knowingly send or deliver any 'letter or writing with or without a name or names subscribed thereto, or 'signed with a fictitious name or names, letter or letters, threatening to 'accuse any person of any crime punishable by law with death, transpor- 'tation, pillory, or any other infamous punishment, with a view or intent to 'extort or gain money, goods, wares or merchandizes from the person or 'persons so threatened to be accused; should be deemed offenders against 'law and the public peace; and the Court before whom such offender or 'offenders should be tried, should in case he, she or they should be con- 'victed of any of the said offences, order such offender or offenders to be 'fined and imprisoned, or to be put in the pillory, or publickly whipped, 'or to be transported as soon as conveniently might be according to the 'laws made for transportation of felons, to some of his Majesty's colonies 'or plantations in *America*, for the term of seven years, as the Court in 'which any such offender or offenders should be convicted should think 'fit and order: And whereas it is expedient that the provisions of the said 'Act should be further extended in the manner hereinafter mentioned:'

Obtaining by false pretences money, &c. or securities.

Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, all persons who knowingly and designedly, by false pretence or pretences, shall obtain from any person or persons, or from any body politic or corporate, any money, goods, wares or merchandizes, or any bond, bill of exchange, bank note, promissory note, or other security for the payment of money, or any warrant or order for the payment of money or delivery or transfer of goods or other valuable thing, with intent to cheat or defraud any person or persons, or any body politic or corporate of the same; or shall knowingly send or deliver any letter or writing with or without a name or names subscribed thereto, or signed with a fictitious name or names, letter or letters, threatening to accuse any person of any crime punishable by law with death, transportation, pillory or any other infamous punishment, with a view or intent to extort or gain any bond, bill of exchange, bank note, promissory note or other security for the payment of money, or any warrant or order for the payment of money, or delivery or transfer of goods or other valuable thing, shall be deemed offenders against law and the public peace, and shall be liable to be prosecuted and punished in like manner as if they had knowingly and designedly, by false pretence or pretences, obtained money, goods, wares or merchandizes, from any person or persons, with intent to cheat or defraud any person or persons of the same, or had sent or delivered such letter or writing with a view or intent to extort money, goods, wares or merchandizes, from the person or persons so threatened.

Sending threatening letters to accuse persons of having committed crimes with an intent to extort or gain money or goods.

PART V. CLASS XII.

FORGERY*.

* The following general view of the construction and operation of the several modern statutes respecting forgery is principally abridged from East's Pleas of the Crown, ch. 19. The points arising upon particular statutes included in the collection will also be noted in the proper places to which they respectively belong.

In discussing the question, How far the validity in law of the thing forged, supposing it was true, is essential to forgery? Sir E. H. East (referring to Hawkins, ch. 70, § 7.) observes, that it is said to be no way material, whether a forged instrument be made in such a manner as, if it were true, it would be of any validity, or not; and adds, that he conceives this must be understood, when the false instrument carries on the face of it the semblance of that for which it is counterfeited, and is not illegal in its very frame; and proceeds to notice the case of Deakins, 1 Sid. 142. for forging a protection in the name of one as being M. P. who was not so; of Japhet Crooke, 2 Str. 901. Fitzg. 57, 261. (indicted upon 5 Eliz.) for forging a conveyance of lands by a false description, and sufficient, if genuine, to pass such lands; and of Coogan, 2 Leach. Ca. 208. and Ball, MSS., and of Murphy and Stirling, therein cited, for forging the wills of persons not dead. The same observation applies to forging the names of fictitious persons, § 43.

It is sufficient to constitute a forgery, if there be such a degree of similitude as will impose upon persons not having particular experience in such matters; as where a person from the bank said that he could not have been imposed upon by the counterfeit; but it appeared that others had been deceived, though the counterfeits were very ill executed; R. *v.* Hood, before Le Blanc J., East, 1802. So where the forged bank note had no watermark; Elliot's case, 1777. Leach, Ca. 90, (East, § 44). But query, Whether there is any case where the mere unskilfulness of the execution, however great, will excuse a forgery, complete as to the terms and language of the instrument, and committed with a felonious intent? If the instrument forged is not in its terms such as the indictment charges it to be, the case is not supported; as where an instrument, stated in the indictment as purporting to be a bank note, was a promise to pay for *self* and company of *my* bank *in* England; Jones's case, Leach, Ca. 103. Doug. 302. But a mistake in framing the instrument itself will not excuse, as where a forged will commenced "I Peter Perry," and was signed John Perry; Fitzgerald's case, Leach, Ca. 9.

Forgery of a will, purporting to be a devise of land, attested only by two witnesses, not sufficient, without its appearing that there was only a chattel interest; Watt's case, 1800. So of a bill of exchange for less than 5*l.*, not attested by a subscribing witness, or having the other requisites of 17 Geo. III. c. 30. (See ante Pt. III. Cl. IV. No. 3.) Secus as to the want of a stamp; Hawkeswood's case, Leach, Ca. 129; Martin's case, MSS. Jud.; or as to a collateral objection, as when an order for payment of prize-money bore date when the seaman was within seven miles of the port of discharge, and would therefore be void by 32 Geo. III. ch. 34, § 2; Mc. Intosh's case, 1800, MSS. Jud. (§ 45).

With respect to the name in which the forgery is committed, it is now settled that the use of a ficticious name is a forgery, as well as the assumption of the name of an existing person. This was determined in the case of Aaron Lewis, O. B. 1754, for forging a deed purporting to be a warrant of attorney from Elizabeth Tough, *Administratrix of R. Tough*, deceased, to receive prize-money; there being no such person as Elizabeth Tough in existence; Foster, C. L. 116. So in the case of Bolland, (1772) who, having indorsed a real note in his own name, was told by *Jessett*, the person employed to negotiate it, that he should not be able to indorse it with his (Bolland's) name. [Bolland was a well-known character as a sheriff's officer.] Upon which he said he would take his name off, and another person began erasing it, and the name being erased except the letter B, the prisoner said—"Don't scratch it all out: it may disfigure or cancel the note. I will think of some other name that begins with a B." And immediately made the name Banks, and directed *Jessett* to say that Banks kept a public-house in Rathbone-place. So in Lackett's case, 1772, Leach, Ca. 55. where the prisoner gave a draft on a banking house in a fictitious name. It is also agreed to be immaterial whether the prisoner gained any additional credit by using the false name; as where a person offered to discount a bill which had been stolen, and the clerk offered to discount it if the prisoner would indorse it, that being the invariable rule of the house, and the prisoner indorsed a fictitious name—all the judges were of opinion that the case amounted to forgery; for though the fictitious signature was not necessary to the obtaining of the money, and the intent in writing the false name was only to conceal through whose hands the bill had passed, yet it was a fraud both on the owner and the person discounting; as the one lost the chance of tracing it, and the other the benefit of a real indorser; Taft's case, Leach, Ca. 88; E. P. C. ch. 19, § 46.

So where a person who, by some means which did not appear, had obtained a bill indorsed in blank, prevailed on the drawee to pay it, upon being allowed discount, a few days before it became due, and indorsed a receipt in a fictitious name; although it was objected that the receipt was unnecessary, the possession of the bill being a sufficient discharge to the payer, which was not strengthened by the words written by the prisoner; and consequently the act of the prisoner was of no effect; Taylor's case, Leach, Ca. 106; E. P. C. ch. 19. § 46. And in Shepherd's case, 1781, the prisoner was convicted of forgery, in drawing, in a fictitious name, upon a bank which had no account with any person of the name assumed; Leach, Ca. 113; E. P. C. ch. 19, § 50.

In the case of Eliz. Dunn, 1765, the prisoner calling herself Mary Wallace, and pretending to be the widow of John Wallace, a seaman, deceased, applied to Harper, (a prize agent) to advance her money to pay the fees of her husband's will. She returned with a

probate, and produced a certificate that she was the Mary Wallace named in the will, and put her mark to a promissory note for the money lent, directing the prosecutor to write the name Mary Wallace. Judgment was respited on a doubt whether, as the note, though made by the prisoner in an assumed name, was her own note, made and offered as her own, and not as the note of another in contradistinction to herself, the offence amounted to a forgery; which nine judges, dissentiente Aston, (two being absent) held that it did; Leach, Ca. 32; East, § 49. In the opinion of the judges, as stated in Leach, it seems to be assumed, (contrary to the express determination in subsequent cases) that a person borrowing money upon his own note, and merely assuming a fictitious name without any relation to a different person, is not guilty of forgery; "for (it is said) there the whole credit is given to the party himself: the latter accepted the security of that person only; he has no other remedy in view but merely against the man he is dealing with, and the security itself is really and truly the instrument of the party whose act it purports to be, however subscribed by a fictitious name: he has therefore a remedy upon it against the person on whose credit he took it, and consequently is not substantially defrauded." The case, as warranting a conviction, is put upon the footing of the prisoner assuming the character of executrix of Wallace, a real person, actually entitled to wages. The judges also referred to the authority of the above-mentioned case of Aaron Lewis, where there had been such a person as Richard Tough, who was really entitled to the prize-money which it was the object of the forgery to obtain. Sir E. H. East, in referring to the case upon the authority of MS. (being the notes of Mr. Justice Yates, interleaved in the summary of Hale's Pleas of the Crown), states the following principles as laid down in the case:—1st. That if a person give a note or other security as his own note or security, and the credit thereupon be personal to himself, without any relation to another, his signing such a note with a fictitious name may indeed be a cheat, but will not amount to a forgery; for in that case it is really the instrument of the party whose acts it purports to be, and the creditor had no other security in view. But 2d. If a note had been given in the name of another person either really existing or represented so to be, and in that light to obtain a superior credit, or induce a trust which would not have been given to the party himself, it is then a false instrument, and punishable as forgery. 3d. That the law would be the same, though the note or security was thus falsely subscribed in the presence of him who lent his money upon it, if the impostor and the party whose name is made use of were both strangers to him; for then he would not know that such impostor was not really the person whose name he assumed, and therefore he would be equally deceived. Sir E. H. East, having cited this passage, says—"How far the first proposition above laid down is to be taken in its utmost latitude, has been the subject of much difference of opinion, which he should proceed to consider, pursuing the subject by steps."

I apprehend, however, that the subsequent examination is beside the question agitated in the case of Eliz. Dunn; the real question in that case being, Whether the signing a name by the prisoner, not her own, in the presence of the person intended to be defrauded, was to be deemed forgery, when the false name was used with reference to the real name of a deceased person, who had an actual right to certain property, in respect of which the fraud was intended to be committed? there having at that time been no decision that the mere signature of a fictitious name to a given instrument, without more, was sufficient to constitute that offence; and the object of the observation was to distinguish the particular case in which the name falsely assumed had relation to a really existing character from that of the same fictitious signature, unaccompanied by special circumstances. The general proposition, that the use of a mere fictitious name was in itself sufficient to constitute forgery, was first established in Bolland's case, before which time it would certainly have admitted of very serious doubt; and the contrary, as already observed, is taken for granted in the case last examined. But after the other authorities, by which it is completely settled that such a case was within the acts respecting forgery, it would have been quite sufficient to have shewn that the prisoner, with a fraudulent intent, signed a promissory note in the name of Mary Wallace; and it would have been perfectly unnecessary to resort to the additional circumstance of the fraudulent object being to obtain credit in respect of money actually due to the deceased, John Wallace, of whom Mary was falsely alledged to be the representative.

A person may be guilty of forgery in signing his own name, by assuming to be a different person of the same name; as when a bill of exchange, payable to J. S. comes into the hands of a person bearing that name, who, knowing that he is not the person intended as payee, indorses it. So in any other case, where the instrument imports to be that of a particular individual, different from the person by whom it is subscribed. See Mead *v.* Young, 4 T. R. 28. In the case of Parkes *v.* Brown, 1796, it was held by the judges, that a note dated Rington, Salop, payable at Messrs. D. T. and Co.'s bankers, London, and signed Thos. Brown (the name of one of the prisoners), was a forgery, although no particular person of that name was intended to be represented. The ground of the judgment was, that the person in whose name the note was made was, according to the description in the note, resident at Rington, and it imported that he was a correspondent of D. T. and Co. and had money in their hands; and he was also represented as a brother of the prisoner; but no such person of that name and description did exist.

This case, although supported by the highest authority, has always appeared to me to rest

upon very questionable principles. As to the last ground stated, of a false representation in passing the note, it is clear that, unless the instrument was a forgery in its inception, it could not be made so by subsequent representation; and in Hevey's case, E. P. C. ch. 19, § 5; Leach, case 115, when an instrument was in the name of M'Carty, and it was found by the jury to have been made by a person of that name, the false representation of the prisoner, that he was the person so named, was ruled not to support an indictment for forgery. It surely cannot be said that drawing a bill upon a house with which the drawer has no account, or making a note payable at a house where he has no effects, can be considered a forgery; and the only remaining question is, whether dating it at a place different from the residence of the person signing is sufficient to make it such. In a case at Lancaster, about the year 1807, before Chambre J. where a bill by the prisoner, D. Walker) who was a pauper at Manchester), was dated Liverpool, signed D. Walker and Co. and drawn on Devaynes and Co. London, it appeared that similar bills had been before drawn in the same manner, and being provided for before due, had been regularly paid, although the drawer was unknown to the house, the above case was cited as an authority; but the learned judge ruled that the evidence was not sufficient to go to the jury.

In the case of Aickles, 1787, Leach, Ca. 202; E. P. C. ch. 19. § 50, the prisoner had taken a house in the name of Mason, in which name he drew the bill alledged to be forged, and the jury expressly found that he assumed the name for the purpose of committing the particular fraud, there was a difference of opinion amongst the judges; and, by mistake, Mr. J. Ashurst gave judgment at the O. B. that it was not a forgery; conceiving that it had been so decided. But it may be difficult to admit that the case involved any real ground of doubt, when the specific fraudulent intention was expressly found, and the taking the house was only a part of the machinery of the fraud. It was observed by Gould J.—"that he made the note in the name of another, as if his own, and clearly with intent to defraud. Whether there existed a person of that name or not was immaterial: the felony consisted in the intent to defraud under the falsity. One might assume a feigned name, and make a draft in it, and yet innocently, as if he concealed himself to avoid arrest, and appointed his friend on whom he drew, to pay his bills; or, giving notes, took care to pay them when due; but the prisoner having no such intention, but, on the contrary, to defraud the party by making the note under such disguised name, by which, after he left the place of concealment, he could not be traced, the case amounted to forgery." Sir E. H. East comments upon this case at length, and says, that he cannot help suspecting that much of the difficulty in those cases arises from mistaking matters of fact for matters of law, and confounding the two together. And this seems to be the true view of the case; for if the use of the assumed name is intended to commit a fraud in the particular instance, there is no reason for not treating it as a forgery, although that may only be part of a more general system of fraud, which such assumption is intended to carry into effect. In the case of Hadfield, at Carlisle, 1803, the prisoner had appeared in the neighbourhood of the Lakes in Cumberland, pretending to be the Hon. Alexander Augustus Hope, brother of the Earl of Hopetoun, and in that name induced a young woman to marry him, and imposed upon several persons in the neighbourhood. During his residence he drew the bill in question, upon a gentleman to whom he was known by that name, which probably would have been paid, if the grand deception had not in the mean time been discovered. For this forgery he was convicted and executed; but a material ingredient in the case was his assuming the name and character of a really existing person.

The indictment must set out the forged instrument in words and figures; and it is not sufficient to state the purport of it; Mason's case, E. P. C. ch. 19. § 53. It is sufficient to charge the prisoner with forging a given instrument, *as follows;* setting out the tenor; R. v. Powell. 2 Bl. Rep. 787; and this is now the constant form of the indictments preferred on the part of the Bank of England. But the setting out the act forged is not in all cases sufficient, as it may be necessary to shew, by relation to some other subject, that the forgery is of one of the instruments mentioned in the statutes. In Hunter's case, E. P. C. ch. 19. § 36; Leach, Ca. 273. the indictment stated that the prisoner, being in possession of a navy bill, (which was set forth) forged a receipt as follows, viz. "Wm. Thornton;" which was holden to be not sufficient; though the name, coupled with the navy bill, might together form a receipt: but then it ought to be so stated, as in a case referred to in C. C. C. wherein it was stated that the prisoner, H. P. having in his custody a certain warrant (particularly mentioned) for payment of 8*l.* to W. D. on the back of which warrant W. D. had signed his name, *which said warrant, together with the said indorsement, did purport to be a receipt under the hand of the said W. D. for the said sum of* 8*l.*, the said H. P. did feloniously alter, &c. In Testick's case, E. P. C. ch. 19. § 36. the indictment charged the forging a receipt for money, *as follows:* "Received the contents above, by me, S. W." which was held sufficient, without setting out the account to which the receipt was subjoined.

Where the indictment contained the word *received* instead of *recevd.* in the instrument produced, the variation was held to be not material, as it did not change the word. The question was said to be as to the word; not the letter; unless by addition, omission, or alteration it becomes another word. Hart's case, MS. Crown Cas. Res. 57; E. P. C. ch. 19. § 54; Leach, Ca. 78.

An indictment for forging an instrument is supported by proving an alteration in any material part, as by changing a figure, or altering the sum in letters; Dawson's case, 3 *Geo.* I.; 1 Str. 19.; Teague's case, 1802; E. P. C. ch. 19. § 55. But it is more usual, at least in one count, to lay the forgery as an alteration, specifying the particulars.

An indictment may charge the prisoner with forging a writing, purporting to be an instrument of a particular kind; Beech and Martin's case, 2 Bl. Rep. 790: but if the writing upon the face of it is not such as the indictment states the purport to be, the indictment cannot be sustained; as where the indictment was for forging a bill purporting to be directed to one John King by the name of Ring, and the name *Ring* only appeared in the bill, although King was the person interested; Reading's case, E. P. C. ch. 19. § 56. Leach, Ca. 264.

So when the charge was for forging an order, purporting to be directed to G. Lord Kinnaird, Wm. Morland, &c. by the description of Messrs. Ransom, Morland and Hammersley, and the tenor set out was of a bill directed to R. M. and H. the judgment was arrested, because the word purport imports what appears on the face of the instrument: it means the apparent, and not the legal import; Gilchrist's case, East, ubi suprà; Leach, Ca. 280. (In fact Lord K. and the other persons mentioned were bankers, under the firm of R. M. and H.) So Edsall's case, East, ibid. where the purport of a forged bill was in like manner stated, with the actual names of the drawers, and not with the name of the firm, as appearing on the face of the bill.

The indictment must specify the nature of the instrument forged. Where an indictment for forging an obligation in a certain sum, without a condition, described it as a *bond and writing obligatory*, it was objected, that it ought to have been called a writing obligatory; having neither a defeazance nor penalty annexed to it; and that, although a bond was a writing obligatory, yet the converse did not hold. The judges held the conviction right; Dunnett's case, East, § 58. It is stated in East, as an inference from this case, that a superfluous description does not appear to be objectionable: but I am by no means satisfied that the term bond is not properly applicable to an obligation without a condition, although, for the sake of distinction, it is more usually called a single bill. See 2 Bl. Com. 340.

An indictment may be maintained on the 2d. Geo. II. stating that the prisoner did feloniously alter, by forging and adding a cypher, although the word *alter* is not in that statute; the words being "shall falsely make, forge and counterfeit:" but the indictment was admitted to be rather informal; Elsworth's case, E. P. C. ibid.

The indictment must alledge an intent to defraud some person or persons, or by 18 Geo. III. c. 18. some corporation; but it need not appear how the Act was to operate in fraud of such person or corporation, although they may not be mentioned in the writing forged; that being matter of evidence; Powell's case, E. P. C. ch. 19, § 59.; Elsworth's case, ibid.—There are always several counts in the indictment, charging an intent to defraud all such persons or bodies corporate as could be affected by the success of the forgery; but as the intention to commit a fraud at the time of the forgery is usually general, and intended to impose rather upon the person to whom the forged instrument may be accidentally offered, (particularly in the case of bank notes and negociable instruments) I think it would be desirable to pass an Act, rendering it unnecessary to state the name of any person or corporation intended to be defrauded.

With regard to the evidence, an indictment for forging a receipt, with an intent to defraud A. B. C. &c. stewards of the fund of the sons of the clergy, was sustained by proof of forging an indenture of apprenticeship, with a receipt for the premium, in order to obtain the assistance which the stewards are appointed to distribute; Jones and Pullen's case, Leach, Ca. 168.—An indictment for forgery can only be sustained in the county where the forgery is actually committed, which is a question for the jury; but there must be some proof to warrant the conclusion. See Parke's case, E. P. C. ch. 19. § 61. In that case there was no proof, except an uttering by the prisoner's confederate.—I remember a case at Lancaster, in the year 1798, where a clerk of a mercantile house at Liverpool, had stolen several bills, and was afterwards apprehended on board a sloop in the Downs, with a forged indorsement of the drawee on one of the bills; and Rooke J. without any evidence to shew a greater probability of the forgery being committed in Lancashire than in any intermediate county, thought there was enough to go to the Jury, who, however acquited the prisoner.

A confederate cannot be convicted of altering, unless present, or so near as to be able to aid and assist; Soare's and Atkinson's case, E. P. C. ch. 19. § 52.

By several cases it is established, that a person whose name is forged, and who could have any interest in invalidating the instrument, if genuine, is an incompetent witness to prove the forgery. See the cases upon the subject, East, ch. 19. § 61 to 68. Many persons have doubted the correctness of this rule; and it certainly, in many cases, defeats the purposes of justice. But where the party can have no interest, as a cashier of the bank, or a living person whose will has been forged, (Newland's, Coogan's, and Stirling's cases, East, ch. 19. § 67, 68) the objection does not apply. And in a case of this kind, Gould and Yates, Justices, disallowed other evidence to be given of the hand-writing being forged, without positive evidence of the party being dead, although the forgery charged was of the writing of a person resident in the West Indies; Smith's case, E. P. C. ch. 19. § 67. I am much in-

clined to think that such objection would not now prevail; and in fact, the forgery of the signatures of clerks to the bank is constantly proved by other persons.

On account of the limited nature of the subjects, I think it is sufficient to refer generally to the cases of forgery mentioned in the several statutes following, viz.—Forgeries of instruments relating to the South Sea Company, by 9 Anne, c. 21. § 57. 6 Geo. I. c. 11. § 50. Forgeries relating to the East India Company; the London and Royal Exchange Assurance, 6 Geo. I. c. 18; the Governor and Company of British Cut Plate Glass Manufactory, 38 Geo. III. c. 17; Forgeries relating to Stock created by the Parliament of Ireland, and of which the shares are transferable and dividends payable at the Bank of England, 35 Geo. III. c. 66. § 5; Contracts relating to the redemption of the land tax, 42 Geo. III. c. 116. § 194; the register of births or baptisms of nominees in respect of annuities granted by 48 Geo. III. c. 142; the provisions by the several Acts respecting lotteries or exchequer bills, or other particular instruments; the memorials of register of deeds, under the authority of the Acts relating to Middlesex and the several ridings of Yorkshire; the forgery of instruments relating to the excise, by 46 Geo. III. c. 75; of the customs, by 46 Geo. III. c. 150. and several other cases; many of which particular provisions were originally, or have since become, unnecessary, as included in statutes of general operation.

As to forging prefines, see 32 Geo. II. c. 14, ante, Pt. II. Cl. X. No. 24; Register of Marriages, 26 Geo. II. c. 33, ante, Pt. I. Cl. III. No. 5.

For the forgery of stamps, see stat. 52 Geo. III. c. 143. post, Class 14, and notes.

[No. I.] 5 Elizabeth, c. 14.—An Act against Forgers of false Deeds and Writings.

No. I. 5 Elizabeth, c. 14.

'FORASMUCH as the wicked, pernicious and dangerous practice of making, forging* and publishing false and untrue charters, evidences, deeds and writings, hath of late time been very much more practised, used and put in ure in all parts of this realm, than in times passed, not only to the high displeasure of God, but also to the great injury, wrong, hurt, damage, disherison and utter undoing of divers the Queen's Majesty's subjects of this realm, and to the great subversion of justice and truth, which seemeth to have grown and happened chiefly by reason that the pains and punishments limited for such great and notable offences, by the laws and statutes of this realm, before this time have been and yet are so small, mild and easy, that such evil people have not been nor yet are afraid to enterprise the practising and doing of such offences:'

The several penalties for forging of deeds the first or second time, &c.

The mildness of the law hath increased the forging of deeds.

II. Be it therefore enacted by the Queen's most excellent Majesty, with the assent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons whatsoever, after the first day of *June* now next coming, upon his or their own head and imagination, or by false conspiracy and fraud with others, shall wittingly, subtilly and falsly forge or make, or subtilly cause or wittingly assent to be forged or made, any false deed, charter or writing sealed, court roll, or the will of any person or persons in writing, to the intent that the state of freehold or inheritance of any person or persons, of, in or to any lands, tenements or hereditaments, freehold or copyhold, or the right, title or interest of any person or persons, of, in or to the same, or any of them, shall or may be molested, troubled, defeated, recovered or charged; or after the said first day of *June* shall pronounce, publish or shew forth in evidence, any such false and forged deed, charter, writing, court roll or will, as true, knowing the same to be false and forged, as is aforesaid, to the intent above remembered, and shall be thereof convicted, either upon action or actions of forger of false deeds, to be founded upon this statute, at the suit of the party grieved, or otherwise according to the order and due course of the laws of this realm, or upon bill or information to be exhibited into the court of the Star-chamber, according to the order and use of that court, shall pay unto the party grieved his double costs and damages, to be found or assessed in that court where such conviction shall be, and also shall be set upon the pillory in some open market-town, or other open place, and there to have

Made felony by 2 G. 2. c. 25. & 9 G. 2. c. 18.

The penalty for forging or publishing of a false deed, whereby another's freehold shall be troubled.

* ['To forge is metaphorically taken from the smith, who beateth upon his anvil, and forgeth what fashion or shape he will: the offence is called crimen falsi, and the offender falsarius; and the latin word to forge is falsare, or fabricare.' 3 Inst. 169.]

No. I. 5 Elizabeth, c. 14.

both his ears cut off, and also his nostrils to be slit and cut, and seared with a hot iron, so as they may remain for a perpetual note or mark of his falsehood, and shall forfeit to the Queen our Sovereign Lady, her heirs and successors, the whole issues and profits of his lands and tenements during his life, and also shall suffer and have perpetual imprisonment during his life; the said damages and costs to be recovered at the suit of the party grieved as is aforesaid, to be first paid and levied of the goods and chattels of the offender, and of the issues and profits of the said lands, tenements and hereditaments of such party convicted or of one or both of them; the said title of our said Sovereign Lady the Queen, her heirs or successors, to the same notwithstanding.

Forging of a deed, whereby a lease or annuity may be claimed.

III. And be it further enacted by the authority aforesaid, That if any person or persons after the said first day of *June*, upon his or their own head or imagination, or by false conspiration or fraud had with any other, shall wittingly, subtilly and falsly forge or make, or wittingly, subtilly and falsly cause or assent to be made and forged, any false charter, deed or writing, to the intent that any person or persons shall or may have or claim any estate or interest for term of years, of, in or to any manors, lands, tenements or hereditaments, not being copyhold, or any annuity in fee-simple, fee-tail or for term of life, lives or years; or after the said day shall as is aforesaid forge, make or cause or assent to be made or forged, any obligation or bill obligatory, or any acquittance, release or other discharge of any debt, accompt, action, suit, demand or other things personal; or if any person or persons after the said first day of *June* shall pronounce, publish or give in evidence, any such false and forged charter, deed, writing, obligation, bill obligatory, acquittance, release or discharge, as true, knowing the same to be false and forged, and shall be thereof convicted by any the ways or means aforesaid: That then he shall pay unto the party grieved his doubled costs and damages, to be found and assessed in such court where the said conviction shall be had, and shall be also set upon the pillory in some open market town or other open place, and there to have one of his ears cut off, and shall also have and suffer imprisonment by the space of one whole year, without bail or mainprize.

Forging of an obligation, acquittance, release, &c.

The several remedies of the party grieved against the offender.

IV. And be it further enacted by the authority aforesaid, That the party and parties grieved by reason of any the offences aforesaid, shall and may, at his and their pleasure, have and sue his action of forger of false deeds upon this statute, against any the offenders in the same, by original writ out of the Queen's Highness Court of Chancery, and shall and may have like process upon the same, as in cases of trespass at the common law; or may at his pleasure take his suit against any such offenders in any the premisses, by bill before the Queen's Highness, her heirs and successors, in her court commonly called the King's Bench, or in the Court of the Exchequer; in which suits no essoin, injunction or protection shall be allowed for the party defendant.

He that is once punished for an offence shall not after be impeached for the same.

V. And be it further enacted by the authority aforesaid, That if the party defendant shall be convicted for any the offences aforesaid, according to the order and form above limited, and shall have received thereupon punishment corporal according to this Act; that then he shall not eftsoons be impeached for the same offence.

The plaintiff's release shall discharge only his own remedy.

VI. And be it further enacted by the authority aforesaid, That although the party or parties plaintiff in any such action or bill to be sued, as is aforesaid, shall after verdict passed against the defendant or defendants, happen to release or discharge the judgment or execution upon the same, or otherwise suffer the same to be discontinued; That yet, nevertheless the same release, discharge or discontinuance, shall extend only to discharge such costs and damages as the same plaintiff should have had against the defendant; and that the judges before whom the said action or suit shall be taken, shall and may proceed to judgment of and upon the residue of the said penalties and forfeitures, and to command execution upon the same; the said release, discontinuance, or other discharge had, made, done or suffered by the party plaintiff, in any wise notwithstanding; this Act or any thing therein contained to the contrary in any wise notwithstanding.

No. I. 5 Elizabeth, c. 14.

VII. And be it further enacted by the authority aforesaid, That if any person or persons, being hereafter convicted or condemned of any the offences aforesaid, by any the ways or means above limited, shall after any such his or their conviction or condemnation eftsoons commit or perpetrate any of the said offences in form aforesaid; that then every such second offence or offences shall be adjudged felony; and the parties being thereof convicted or attainted according to the laws of this realm, shall suffer such pains of death, loss and forfeiture of their goods, chattels, lands and tenements, as in cases of felony by the common laws of this realm ought to be lost or forfeited, without having any advantage or benefit of clergy or sanctuary; saving to every person and persons, bodies politick and corporate, their heirs and successors, other than the said offenders, and such as claim to their uses, all such rights, titles, interests, possessions, liberties of distresses, leases, rents, reversions, offices and other profits and advantages, which they or any of them shall have at the time of such conviction or attainder, of, in or to any the lands, tenements or hereditaments of any such person so as is aforesaid convicted or attainted, or at any time before, in as large and as ample manner, to all intents and purposes, as if this Act had never been had ne made.

The second offence felony

VIII. Provided always, and be it enacted by the authority aforesaid, That any such conviction or attainder of felony, as is aforesaid, or any forfeiture by reason of the same, shall not in any wise extend to take away the dower of the wife of any such person attainted, nor to the corruption of blood, or disherison of any the heir or heirs of any such person or persons so attainted; this Act, or any thing therein contained, or any other statute, law, usage, custom, or thing heretofore used to the contrary in any wise notwithstanding.

There shall be no forfeiture of dower or corruption of blood for this felony.

IX. Provided also, and be it further enacted by the authority aforesaid, That this Act, or any thing therein contained, shall not extend to charge any ordinary, or any their commissaries, officials, registers or any other their officers or ministers, with any the offences aforesaid, for putting their seal of office to any will to be exhibited unto them, not knowing the same to be false or forged, or for writing of the said will or probate of the same; this Act or any thing therein contained to the contrary notwithstanding.

Officials or registers putting a seal to a will.

X. And be it further enacted by the authority aforesaid, That all and every justices of *Oyer* and *Determiner*, and justices of assize in their circuits and every of them, shall have full power and authority in every of their open and general sessions, to enquire, hear and determine of all and every the offences aforesaid committed or done within the limits of their commission, and to make process for the execution of the same, as they may do against any person being indicted before them of trespass, or lawfully convicted thereof.

Which justices may hear and determine these offences.

XI. And be it further enacted by the authority aforesaid, that all other statutes* heretofore made and provided for forgery of false deeds, charters, muniments or writings, and all and every penalty appointed by the same, shall from and after the said first day of *June* be void and of none effect in the law; any such statute or thing therein contained to the contrary in any wise notwithstanding.

A repeal of all other statutes made against forgery.

XII. Provided always, That this Act, or any thing therein contained, shall not extend or be hurtful in any wise to any proctor, advocate or register of any Ecclesiastical court within this realm, for the writing, setting forth or pleading of any proxy made according to the ecclesiastical laws or customs heretofore used and allowed by the Ecclesiastical Courts of this realm, for the appearance of any person or persons being cited to appear in any of the said Courts Ecclesiastical, nor to any archdeacon or official, for putting their authentick seal to the said proxy or proxies, neither yet to any judge ecclesiastical for admitting of the same: but that they and every of them may hereafter do in all points concerning the same,

To what persons this statute shall not extend.

* [The statute antecedent to the present, denouncing forgery, is, 1 Hen. 5. c. 3. entitled, 'the Penalty for forging or publishing a false deed.']

No. I. 5 Elizabeth, c. 14.

as they and every of them might lawfully have done before the making of this Act; any thing in this Act to the contrary in any wise notwithstanding.

Forging of deeds before this statute, or presently after.

XIII. Provided always, and be it further enacted by the authority aforesaid, That if any person or persons whatsoever, that hath of his or their own head, or by false conspiracy and fraud with any other, wittingly, subtilly and falsely forged or made, or shall before the said first day of *June* forge and make any false deed, charter or writing sealed, or the will of any person in writing, or any court-roll, to the intent that the estate of freehold or inheritance, or the right, title or interest of inheritance or freehold of any person or persons, of, in or to any manors, lands, tenements or hereditaments, being freehold or copyhold, or that by any such forged deed, charter, court-roll or writing, before the said first day of *June* shall or may be molested, troubled or defeated of any of the said estates of any lands, tenements or hereditaments, being freehold or copyhold: Or if any person or persons have heretofore published or shewed forth in evidence, or before the said first day shall publish or shew in evidence for the proof of any title, any false or forged deed, charter, writing, will or court-roll, as true, knowing the same to be false and forged as is aforesaid, to the intent above remembered, and shall be thereof attainted or convicted, according to the order of the laws of this realm, either in an action of forger of false *Faits*, or in an action upon the case at the suit of the party grieved, his heirs, executors or assigns, that then the party so convicted shall pay and yield damages and costs of suit to the plaintiff, as shall be assessed according to the order of the laws of this realm in any such like action or suit, and shall suffer imprisonment and pay fine and ransom at the pleasure of the Queen's Majesty, her heirs and successors.

The penalty for pleading or publishing a forged deed made before this statute, or shortly after.

XIV. And if any person or persons shall after the said first day of *June*, plead, publish or shew forth in evidence or otherwise, for the proof of any title, any false and forged deed, charter, writing, will or court-roll, heretofore falsely made and forged, or to be falsely made and forged before the said first day of *June*, as true, knowing the same to be false and forged, to the intent to have or claim thereby any estate of inheritance, freehold, or lease of years, in or to any manors, lands, tenements or hereditaments, or any annuity, rent or profit, forth of any manors, lands, tenements or hereditaments; or to the intent to alter, defeat, molest, trouble, charge or recover the estate of inheritance, freehold or for years, of any person in any manors, lands, tenements, rents or hereditaments; That then every person and persons that shall so offend, and shall be thereof convicted in form first above remembered, shall pay unto the party grieved, double costs and damages; and shall have imprisonment, loss of ears, slitting and searing of nose, and forfeiture of lands, in the same manner and form as above is limited, for any person that shall offend by forging or publishing of any false deed or writing as is aforesaid after the aforesaid first day of *June*.

A lawyer or attorney pleading a forged deed.

XV. Provided always, and be it enacted by the authority aforesaid, That this Act, nor any pain, forfeiture or thing therein contained, shall not extend to any attorney, lawyer or counsellor that shall for his client plead, shew forth or give in evidence any false and forged deed, charter, will, court-roll, or other writing, for true or good, being not party or privy to the forging of the same, for the pleading, shewing forth or giving in evidence of the same; any thing in this Act to the contrary notwithstanding.

Pleading a writing exemplified, or setting a seal to the same.

XVI. Provided always, and be it enacted by the authority aforesaid, That this Act, or any thing therein contained, shall not extend to any person or persons that shall plead or shew forth any deed or writing exemplified under the great seal of *England*, or under the seal of any other authentick court of this realm; nor shall extend to any judge or justice, or other person, that shall cause any seal of any court to be set to any such deed, charter or writing inrolled, not knowing the same to be false or forged; any thing in this Act to the contrary notwithstanding.

[No. II.] 21 James I. c. 26.—An Act against such as shall

levy any Fine, suffer any Recovery, acknowledge any Statute, Recognizance, Bail, or Judgment, in the Name of any other Person or Persons not being privy and consenting thereto *.

No. II. 21 James I. c. 26.

'WHEREAS it is of late grown to be a great and general grievance to his Majesty's subjects within the realm of *England*, and the dominion of *Wales*, that many lewd persons of base condition, for very little reward or recompence, have of late years used and still do use to levy fines, and suffer recoveries of lands and other hereditaments, to acknowledge statutes, recognizances, bails, and judgments, in the name or names of any other person or persons not privy or consenting to the same, which hath and daily doth turn to the great inquietation, charge, trouble, and undoing of many of the good subjects of this kingdom, and the rather for that there is no remedy in law to reform these and the like abuses:'

Felony to levy a fine, suffer a recovery, &c. in another's name not privy thereto.

II. For remedy whereof, be it enacted by the King's most excellent Majesty, the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all and every person and persons which at any time after the end of this present session of Parliament shall acknowledge, or procure to be acknowledged, any fine or fines, recovery or recoveries, deed or deeds inrolled, statute or statutes, recognizance or recognizances, bail or bails, judgment or judgments, in the name or names of any other person or persons not privy or consenting to the same, and being thereof lawfully convicted or attainted, shall be adjudged, esteemed, and taken to be felons; and suffer the pains of death, and incur such forfeitures and penalties, as felons in other cases convicted or attainted do by the laws of *England* lose and forfeit, without the benefit or privilege of clergy to be allowed to any such offender or offenders: Provided always, That such attainder shall not be any corruption of blood, nor loss of dower to the wife, but the next heir shall have the lands whereof such person attainted died seised, and such wife her dower, as if no such attainder had been had.

This felony shall not corrupt the blood, nor take away dower.

An attorney may do it where judgment is given.

III. Provided always, and be it likewise enacted by the authority aforesaid, That this Act shall not extend to any judgment or judgments acknowledged by any attorney or attornies of record, for any person or persons against whom any such judgment or judgments shall be had or given.

[No. III.] 8 George I. c. 22.—An Act **to prevent the Mischiefs by forging Powers to transfer such Stocks, or to receive such Annuities or Dividends as are therein mentioned, or by fraudulently personating the true Owners thereof;** and to rectify Mistakes of the late Managers for taking Subscriptions for increasing the Capital Stock of the *South-Sea* Company, and in the Instruments founded thereupon. P.

No. III. 8 George I. c. 22.

I. 'WHEREAS of late divers frauds and abuses have been committed by forging and counterfeiting the hands of some of the proprietors of the shares of and in the capital stock and funds of such body or bodies politick or corporate, as are established by Act or Acts of Parliament in that behalf, or some of them, or by forging or counterfeiting the hands of persons entitled to the dividends attending the said shares, or some of them, or by forging or counterfeiting the hands of persons entitled to annuities, in respect whereof the proprietors have transferrable shares in a capital stock or stocks established by Act or Acts of Parliament, in proportion to their respective annuities; and divers frauds and abuses have been or may be committed by persons falsely and deceitfully personating the true

* Extended to bail taken before commissioners by 4 W. and M. c. 4. § 4. Pt. III. Cl. III. No. 16.

No. III. 8 George I. c. 22.

'and real proprietors of the said shares in stock, annuities and dividends, 'or some of them:' Now for the better preventing such pernicious practices for the future, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons whatsoever, from and after the first day of *March* one thousand seven hundred and twenty-one, shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting any letter of attorney, or other authority or instrument to transfer, assign, sell or convey any such share or shares, or any part of such share or shares of and in such capital stock or stocks as aforesaid, or any of them, or to receive any such annuity or annuities, dividend or dividends as aforesaid, or any of them, or any part thereof, or shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting any the name or names of any the proprietors of any such share or shares in stock, or of any the persons entitled to any such annuity or annuities, dividend or dividends as aforesaid, in or to any such pretended letter of attorney, instrument or authority, or shall knowingly and fraudulently demand, or endeavour to have any such share or shares in stock, or any part thereof, transferred, assigned, sold or conveyed, or such annuity or annuities, dividend or dividends, or any part thereof, to be received by virtue of any such counterfeit or forged letter of attorney, authority or instrument, or shall falsely and deceitfully personate any true and real proprietors of the said shares in stock, annuities and dividends, or any of them, or any part thereof, and thereby transferring or endeavouring to transfer the stock, or receiving or endeavouring to receive the money of such true and lawful proprietor, as if such offender were the true and lawful owner thereof; then and in every or any such case, all and every such person and persons (being thereof lawfully convicted in due form of law) shall be adjudged guilty of felony, and shall suffer as in cases of felony, without benefit of clergy.

After 1 March, 1721, forging letters of attorney, &c.

or counterfeiting names of proprietors, &c.

or falsely personating real proprietors of shares, &c. felony.

[No. IV.] 12 George I. c. 32.—An Act for better securing the Monies and Effects of the Suitors of the Court of Chancery; **and to prevent the Counterfeiting of East India Bonds, and Indorsements thereon; as likewise Indorsements on South-Sea Bonds.**

No. IV. 12 Geo. I. c. 32.

IX. AND be it likewise further enacted by the authority aforesaid, That if any person or persons shall, from and after the first day of *May* in the year of our Lord one thousand seven hundred and twenty-six, forge or counterfeit, or procure to be forged or counterfeited, or willingly act or assist in the forging or counterfeiting the name or hand of the said accountant-general, the said register, the said clerk of the report-office, or any of the cashiers of the said governor and company of the Bank of *England*, to any certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing whatsoever, for or in order to the receiving or obtaining any the money or effects of any of the suitors of the said Court of Chancery, or shall forge or counterfeit, or procure to be forged or counterfeited, or wilfully act or assist in forging or counterfeiting any certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing in form of a certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing, made by such accountant-general, register, clerk of the report-office, or any of the cashiers of the said governor and company of the Bank of *England*, or any bond or obligation under the common seal of the united company of merchants of *England* trading to the *East Indies*, or any indorsement or assignment thereon, or on any bond or obligation under the common seal of the governor and company of merchants of *Great Britain* trading to the *South Seas* and other parts of *America*, and for encouraging the fishery; or shall utter or publish any

Forging the hand of the accountant to a certificate to receive suitors effects in the bank,

or any East India or South Sea Bond, is felony without clergy.

such, knowing the same to be forged or counterfeited, with intention to defraud any person whatsoever; then every such person and persons so offending (being thereof lawfully convicted) shall be, and is hereby declared and adjudged to be guilty of felony, and shall suffer death, as in case of felony, without benefit of clergy.

No. IV. 12 Geo. I. c. 32.

[No. V.] 2 George II. c. 25.—An Act **for the more effectual preventing and further Punishment of Forgery,** Perjury, and Subornation of Perjury; and to make it Felony to steal Bonds, Notes, or other Securities for payment of Money.

P.

[See the other parts of the Act, Class VII. suprà, Class XVII. infrà.]

No. V. 2 Geo. II. c. 25.

'WHEREAS the wicked, pernicious, and abominable crimes of forgery, perjury, and subornation of perjury, have of late time been so much 'practised, to the subversion of common truth and justice, and prejudice 'of trade and credit, that it is necessary, for the more effectual preventing 'of such enormous offences, to inflict a more exemplary punishment on 'such offenders, than by the laws of this realm can now be done:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person, from and after the twenty-ninth day of *June*, in the year of our Lord one thousand seven hundred and twenty-nine, shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly act or assist in the false making, forging, or counterfeiting, any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for payment of money, indorsement or assignment of any bill of exchange, or promissory note for payment of money, or any acquittance or receipt, either for money or goods, with intention to defraud any person whatsoever, or shall utter or publish as true, any false, forged, or counterfeited deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for payment of money, indorsement or assignment of any bill of exchange or promissory note for payment of money, acquittance or receipt, either for money or goods, with intention to defraud any person, knowing the same to be false, forged, or counterfeited; then every such person, being thereof lawfully convicted according to the due course of law, shall be deemed guilty of felony, and suffer death as a felon, without benefit of clergy.

To forge any deed, &c. felony without benefit of clergy.

[No. VI.] 4 George II. c. 18.—An Act to prevent counterfeiting the Passes, commonly called *Mediterranean Passes*.

No. VI. 4 Geo. II. c. 18.

'WHEREAS certain treaties or conventions have been concluded, and are subsisting between the King's most excellent Majesty and the 'several states and governments of *Barbary*, for establishing and preserving 'a firm and inviolable peace between his Majesty and the said states and 'governments, and their respective dominions and subjects, by which treaties it is stipulated and agreed, That all ships and vessels belonging to his 'Majesty, or any of his subjects, may freely pass the seas, and safely enter 'and come into the ports and harbours of the said respective states and 'governments, without any lett, hindrance, seizure or molestation, upon 'producing passes of a certain form, under the hand and seal of the Lord 'High Admiral of *Great Britain* and *Ireland*, or of the commissioners for 'executing the office of Lord High Admiral of *Great Britain* and *Ireland* 'for the time being; and in conformity to those treaties, and pursuant to 'several orders of his Majesty's most honourable privy council, such passes 'have from time to time been issued, and are commonly called *Mediterranean Passes:* And whereas divers wicked and ill-disposed persons, subjects of his Majesty, have made and forged such passes, and have counter

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No. VI. 4 Geo. II. c. 18.

'feited the seal of the said office, and the hands of several of the commissioners for executing the said office of Lord High Admiral of *Great Britain* and *Ireland*, and have sold and published such false and counterfeit passes in parts beyond the seas, or elsewhere, which practices do not only tend to the manifest prejudice of his Majesty's revenue, and the loss and damage of the merchants of this kingdom, by subjecting their ships, persons, and effects to be seized and detained; but may also occasion a breach of the peace, amity, and friendship between this kingdom and the states and governments aforementioned, should such offenders go unpunished: And whereas the said crimes and offences, being frequently committed in foreign parts, are not triable or cognizable in any court of *Great Britain* or *Ireland*:' For remedying such defect and inconvenience, and also for inflicting a more exemplary punishment upon such offenders: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons, after the twenty-fourth day of *June*, in the year of our Lord one thousand seven hundred and thirty-one, shall within *Great Britain* or *Ireland*, or any other of his Majesty's dominions, or without, falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or wittingly or knowingly act or assist in the false making, forging, or counterfeiting any pass or passes for any ship or ships whatsoever, commonly called a *Mediterranean Pass* or *Mediterranean Passes*, or shall counterfeit the seal of the said office, or the hand or hands of the Lord High Admiral of *Great Britain* and *Ireland* for the time being, or of any commissioner or commissioners for executing the said office for the time being, to any such pass or passes, or shall alter or erase any true and authentick pass or passes issued or made out by the Lord High Admiral of *Great Britain* and *Ireland*, or the commissioners for executing the said office for the time being, or shall utter or publish as true any such false, forged, counterfeited, altered or erased pass or passes, knowing the same to be false, forged, counterfeited, altered or erased, all and every such person and persons, being in due form of law convicted of any of the offences aforesaid in any proper court of *Great Britain, Ireland*, or any of his Majesty's plantations beyond the seas, where such offence shall be committed respectively, shall be adjudged guilty of felony, and shall suffer death, as in cases of felony, without benefit of clergy.

Counterfeiting Mediterranean passes, felony without benefit of clergy.

II. Provided always, and it is hereby further enacted by the authority aforesaid, That all and every the crimes and offences before mentioned, which shall be done or committed in any country or place out of *Great Britain*, either within the dominions of his Majesty, his heirs or successors, or without, shall and may be inquired of, tried, heard, determined, and adjudged in any shire or county of *Great Britain*, by virtue of the King's commission or commissions of *Oyer* and *Terminer* and gaol delivery, or before any Court of Justiciary in *Scotland* respectively, in the same manner as if such offence or offences was or were done or committed within the same county or shire where such offender or offenders shall be tried; any law, statute, custom or usage to the contrary notwithstanding.

These crimes committed in his Majesty's dominions, or without, may be tried in any shire of Great Britain, &c.

[No. VII.] 7 George II. c. 22.—An Act for the more effectual preventing the forging the Acceptance of Bills of Exchange, or the Numbers or principal Sums of accountable Receipts for Notes, Bills, or other Securities for Payment of Money, or Warrants or Orders for Payment of Money, or Delivery of Goods.

No. VII. 7 Geo. II. c. 22.

'WHEREAS in and by an Act of Parliament made in the second year of his present Majesty's reign, intituled, *An Act for the more effectual preventing and further Punishment of Forgery, Perjury, and Subornation of Perjury, and to make it Felony to steal Bonds, Notes, or other Securities for Payment of Money*, it is, amongst other things, enacted, That if any

2 Geo. 2. c. 25.

'person, from and after the twenty-ninth day of *June*, in the year of our 'Lord one thousand seven hundred and twenty-nine, shall falsely make, 'forge, or counterfeit, or cause or procure to be falsely made, forged, or 'counterfeited, or willingly act or assist in the false making, forging, or 'counterfeiting any deed, will, testament, bond, writing obligatory, bill of 'exchange, promissory note for payment of money, indorsement or assign-'ment of any bill of exchange, or promissory note for payment of money, 'or any acquittance or receipt, either for money or goods, with intention 'to defraud any person whatsoever, or shall utter or publish as true, any 'false, forged, or counterfeited deed, will, testament, bond, writing obliga-'tory, bill of exchange, promissory note for payment of money, indorse-'ment or assignment of any bill of exchange or promissory note for pay-'ment of money, acquittance or receipt, either for money or goods, with 'intention to defraud any person, knowing the same to be false, forged, or 'counterfeited; then every such person, being thereof lawfully convicted, 'according to the due course of law, shall be deemed guilty of felony, and 'suffer death as a felon, without benefit of clergy: And whereas no punish-'ment is inflicted by the said Act upon any person who shall falsely make, 'alter, forge or counterfeit, or cause or procure to be falsely made, altered, 'forged, or counterfeited, or willingly act or assist in the false making, 'altering, forging or counterfeiting any acceptance of any bill of exchange, 'or the number or principal sum of any accountable receipt for any note, 'bill, or other security for payment of money, or any warrant or order for 'payment of money, or delivery of goods, or who shall knowingly utter or 'publish the same as true:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, That if any person, from and after the twenty-fourth day of *June*, one thousand seven hundred and thirty-four, shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or willingly act or assist in the false making, altering, forging or counterfeiting any acceptance of any bill of exchange, or the number or principal sum of any accountable receipt for any note, bill, or other security for payment of money, or any warrant or order for payment of money, or delivery of goods, with intention to defraud any person whatsoever, or shall utter or publish as true, any false, altered, forged or counterfeited acceptance of any bill of exchange, or accountable receipt for any note, bill, or other security for payment of money, or warrant or order for payment of money or delivery of goods, with intention to defraud any person, knowing the same to be false, altered, forged or counterfeited; then every such person, being thereof lawfully convicted according to the due course of law, shall be deemed guilty of felony, and shall suffer death as a felon, without benefit of clergy.

No. VII. 7 Geo. II. c. 22.

After 24th June, 1734, persons convicted of forging or altering the acceptance of bills of exchange, or the sums of accountable receipts, &c.

shall suffer death as felons.

[No. VIII.] 15 George II. c. 13.—An Act for establishing an Agreement with the Governor and Company of the Bank of *England*, for advancing the sum of one million six hundred thousand pounds, towards the supply for the service of the year one thousand seven hundred and forty-two.

No. VIII. 15 Geo. II. c. 13.

XI. AND be it further enacted by the authority aforesaid, That if any person or persons shall forge, counterfeit, or alter any bank-note, bank bill of exchange, dividend warrant, or any bond or obligation under the common seal of the said company, or any indorsement thereon, or shall offer or dispose of or put away any such forged, counterfeit, or altered note, bill, dividend warrant, bond or obligation, or the indorsement thereon, or demand the money therein contained or pretended to be due thereon, or any part thereof, of the said company, or any their officers or servants, knowing such note, bill, dividend warrant, bond or obligation, or the indorsement thereon, to be forged, counterfeited, or altered, with intent to

Persons counterfeiting or altering bank notes, &c. to suffer death.

No. VIII. 15 Geo. II. c. 13.

defraud the said company, or their successors, or any other person or persons whatsoever; every person or persons so offending, and being thereof convicted in due form of law, shall be deemed guilty of felony, and shall suffer death as a felon without benefit of clergy.*

* S. 12. supra.

P.

[No. IX.] 31 George II. c. 22.—An Act for granting to his Majesty several Rates and Duties upon Offices and Pensions; and upon Houses; and upon Windows or Lights; and for raising the Sum of Five Millions by Annuities, and a Lottery, to be charged on the said Rates and Duties.

No. IX. 31 Geo. II. c. 22.

Numbers of the fortunate tickets, and the sums to be printed.

Disputes relating thereto, to be adjusted by the managers.

Penalty of forging tickets or certificates.

Felony.

LV. AND, to the end the fortunate may know, whether absent or present, to what degree they have been so; Be it enacted, That as soon as the drawing is over, the said managers are hereby required, as soon as conveniently may be, to cause to be printed and published the number of the tickets drawn against each fortunate ticket, and the principal sum written on the same; and if any contention or dispute shall arise in adjusting the property of the said fortunate tickets, the major part of the said managers agreeing therein, shall determine to whom it doth or ought to belong: And if any person or persons shall forge or counterfeit any ticket or tickets, certificate or certificates, to be made forth in pursuance of this Act, or made forth, or to be made forth, on any former lottery Act, or alter any the numbers thereof, or utter, vend, barter or dispose of, or offer to dispose of, any false, altered, forged or counterfeited ticket or tickets, certificate or certificates, or bring any forged or counterfeit ticket or certificate, or any ticket or certificate the number whereof is altered (knowing the same to be such) to the said managers, or any of them, or the said governor and company of the Bank of *England*, or their cashier or cashiers, or accomptant-general for the time being, or to any other person or persons whatsoever, to the intent to defraud his Majesty, or any contributor or adventurer, or the executors, administrators, successors or assigns, of any contributor or adventurer upon this Act, with a fraudulent intention; then every such person, being thereof convicted in due form of law, shall be adjudged a felon and shall suffer death as in cases of felony, without benefit of clergy: And the said managers and directors, or any two or more of them, are hereby authorised and required to cause any person or persons bringing or uttering such forged or counterfeit ticket or tickets, certificate or certificates, as aforesaid, to be apprehended, and to commit him, her or them, to his Majesty's gaol of *Newgate*, or to the common gaol of the county or place where such person or persons shall be so apprehended, to be proceeded against for the said felony according to law.

Act 8. Geo. 1. c. 22.

Penalty in the recited Act of forging or counterfeiting letters of attorney, in

LXXVII. 'And whereas doubts may arise, whether the punishment inflicted in and by an Act of Parliament made and passed in the eighth year of the reign of his late Majesty, King *George* the First, intituled, *An Act to prevent the Mischiefs by Foreign Powers, to transfer such Stocks, or to receive such Annuities or Dividends as are therein mentioned; or by fraudulently personating the true Owners thereof; and to rectify Mistakes of the late Managers for taking Subscriptions for increasing the Capital Stock of the South Sea Company, and in the Instruments founded thereupon*, on persons guilty of the several species of forgery, and other offences therein mentioned, extends to the commission of the like forgery and offences in relation to such capital stocks and funds as have been established by the authority of Parliament, since the passing of the said Act, and may be hereafter established;' Be it therefore enacted by the authority aforesaid, That if any person or persons whatsoever, from and after the first day of *July*, one thousand seven hundred and fifty-eight, shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting any letter of attorney, or other authority or instrument, to transfer, assign, sell, or convey any share

No. IX. 31 Geo. II. c. 22.

order to sell or transfer stock in any of the funds, &c. or to receive any dividends or annuities thereon, &c. extended to this Act, &c.

or shares of any part of any share or shares, of or in any such capital stock or funds of any body or bodies politick or corporate established, or which shall be established, by any Act or Acts of Parliament; or to receive any dividend or dividends attending any share or shares, or any part of any share or shares, of or in any such capital stock or funds as aforesaid; or to receive any annuity or annuities, in respect whereof any proprietor or proprietors have or shall have any transferrable share or shares of or in any capital stock or stocks which now are, or hereafter shall be established by any Act or Acts of Parliament, in proportion to their respective annuities; or shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting any the name or names of any the proprietors of any such share or shares in stock, or of any the persons intitled to any such annuity or annuities, dividend or dividends, as aforesaid, in or to any such pretended letter of attorney, instrument, or authority; or shall knowingly or fraudulently demand, or endeavour to have, any such share or shares in stock, or any part thereof, transferred, assigned, sold, or conveyed, or such annuity or annuities, dividend or dividends, or any part thereof, to be received by virtue of any such counterfeit or forged letter of attorney, authority or instrument; or shall falsely and deceitfully personate any true and real proprietors of the said shares in stock annuities and dividends, or any of them, or any part thereof, and thereby transferring, or endeavouring to transfer the stock, or receiving or endeavouring to receive the money, of such true and lawful proprietor, as if such offender were the true and lawful owner thereof; then, and in every or any such case, all and every such person and persons, being thereof lawfully convicted in due form of law, shall be deemed guilty of felony, and suffer death as a felon, without benefit of clergy.

Penalty in the Act of 2 Geo. 2. c. 25.

LXXVIII. 'And whereas doubts may arise whether the punishment inflicted in and by an Act of Parliament made and passed in the second year of the reign of his present Majesty, intituled, *An Act for the more effectual preventing and further Punishment of Forgery, Perjury, and Subornation of Perjury; and to make it Felony to steal Bonds, Notes, or other Securities for Payment of Money*, on persons guilty of the several species of forgery therein mentioned, extends to the commission of the like forgeries, with an intention to defraud any corporation;' Be it therefore enacted by the authority aforesaid, That if any person from and after the first day of *July* one thousand seven hundred and fifty-eight, shall falsely make, forge or counterfeit, or cause, or procure to be falsely made, forged, or counterfeited or willingly act or assist in the false making, forging or counterfeiting any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for payment of money, indorsement or assignment of any bill of exchange, or promissory note for payment of money, or any acquittance or receipt either for money or goods, with an intention to defraud any corporation whatsoever; or shall utter or publish as true, any false, forged, or counterfeited deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for payment of money, indorsement, or assignment of any bill of exchange, or promissory note for payment of money, acquittance or receipt either for money or goods, with intention to defraud any corporation, knowing the same to be false, forged, or counterfeited; then every such person, being thereof lawfully convicted according to the due course of law, shall be deemed guilty of felony, and suffer death as a felon, without benefit of clergy.

of forging or publishing any deed, will, obligation, acquittance, &c. with intent to defraud any corporation, extended to this Act.

[No. X.] 3 George III. c. 16.—An Act to impower the Commissioners or Governors of the Royal Hospital for Seamen at *Greenwich*, after defraying the necessary expences thereof, to provide for such Seamen worn out and become decrepit in the Service of their Country, who shall not be provided for within the said Hospital; and to en-

No. X. 3 Geo. III. c. 16.

able them to receive such Pensions as shall be granted them by the said Commissioners or Governors, in the most easy and convenient manner; and for preventing Frauds and Abuses attending the same.

Penalty of personating and falsely assuming the name of any out-pensioner in order to receive the pension, or procuring any other to do the same, is felony without benefit of clergy.

VI. 'AND whereas divers wicked practices may be carried on by persons 'knowingly and willingly personating and falsely assuming the 'name and character of any out-pensioner of the said hospital, in order to 'receive the money due to any such out-pensioner on account of his out-'pension;' Be it further enacted by the authority aforesaid, That from and after the passing of this Act, whosoever willingly and knowingly shall personate or falsely assume the name or character of, or procure any other to personate or falsely to assume the name and character of any person intitled, or supposed to be intitled, as an out-pensioner, to any out-pension or allowance of money from the commissioners or governors of the said hospital, in order to receive the money due, or supposed to be due on such out-pension; every such person so offending, and being lawfully convicted of any such offence or offences, shall be deemed guilty of felony, and suffer death as a felon, without benefit of clergy.

P.

[No. XI.] 4 George III. c. 25.—An Act for establishing an Agreement with the Governor and Company of the Bank of *England*, for raising certain Sums of Money towards the Supply for the Service of the Year one thousand seven hundred and sixty-four; **and for more effectually preventing the Forging Powers to transfer such Stock, or receive such Dividends or Annuities as are therein mentioned, and the fraudulent personating the Owners thereof.**

No. XI. 4 Geo. III. c. 25.

Penalty of forging power to transfer any stock; or to receive any dividends or annuities thereon; or the fraudulent personating the owners thereof,

XV. 'AND whereas it is necessary that provision should be made for 'more effectually preventing the forging powers to transfer any 'such stock, or to receive such dividends or annuities, as are hereinafter 'mentioned, and the fraudulent personating the owners thereof;' Be it further enacted by the authority aforesaid, That if any person or persons whatsoever, from and after the first day of *May* one thousand seven hundred and sixty-four, shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting any letter of attorney, or other authority or instrument, to transfer, assign, sell, or convey, any share or shares, or any part of any share or shares, of and in any capital stock or stocks of any body or bodies politick or corporate, which now are, or hereafter shall be, established by any Act or Acts of Parliament; or any share or shares, or any part of any share or shares, of and in any annuities in respect whereof the proprietors of such annuities have or shall have transferrable shares in any capital stock or stocks now established, or which shall hereafter be established by any Act or Acts of Parliament, in proportion to their respective annuities; or any share or shares, or any part of any share or shares, of or in any other transferrable annuities which now are or hereafter shall be established by any Act or Acts of Parliament; or to receive any such annuity or annuities, or any dividend or dividends attending such shares, or any of them, or any part thereof; or shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting, any the name or names of any the proprietors of any such share or shares in stock, or of any the persons intitled to any such annuity or annuities, dividend or dividends as aforesaid, in or to any such pretended letter of attorney, instrument or authority; or shall knowingly and fraudulently demand, or endeavour to have any such share or shares in stock or annuities, or any part thereof, transferred, assigned, sold, or conveyed, or such annuity or annuities, dividend

or dividends, of any part thereof, to be received by virtue of any such counterfeit or forged letter of attorney, authority, or instrument; or shall falsely and deceitfully personate any true and real proprietor of the said shares in stock, annuities, and dividends, or any of them, or any part thereof, and thereby transferring, or endeavouring to transfer the stock or annuities, or receiving, or endeavouring to receive, the money of such true and lawful proprietor, as if such offender were the true and lawful owner thereof; then, and in every or any such case, all and every such person and persons (being thereof lawfully convicted in due form of law) shall be adjudged guilty of felony, and shall suffer as in cases of felony, without benefit of clergy.

No. XI. 4 Geo. III. c. 25.

is felony without benefit of clergy.

[No. XII.] 9 George III. c. 30.—An Act for repealing so much of an Act passed in the Tenth Year of her late Majesty Queen *Anne*, as relates to the Harbour Moorings of the Royal Navy; and for the more effectual Preservation of such Harbour Moorings; and Punishment of Persons guilty of stealing or embezzling his Majesty's Naval Stores; **or of Forgery or Perjury in Relation to Seamen's Wages.**

P.

VI. AND be it further enacted by the authority aforesaid, That if any person shall, after the said twenty-fourth day of *June*, one thousand seven hundred and sixty-nine, utter or publish, as true, any false, forged, or counterfeited letter of attorney, bill, ticket, certificate, assignment, last will, or any other power or authority whatsoever, in order to receive any wages, pay, or other allowances of money, or prize money, due or supposed to be due to any officer, or seaman, or other person, who has really served or was supposed to have served, or who shall hereafter serve or be supposed to have served, on board of any ship or vessel of his Majesty, his heirs or successors, with intent to defraud any person, knowing the same to be false, forged, or counterfeited, then every such person, being thereof lawfully convicted, shall be deemed guilty of felony, and shall suffer death as a felon, without benefit of clergy.

No. XII. 9 Geo. III. c. 30.

Penalty of uttering any forged letter of attorney, bill, ticket, certificate, assignment, last will, &c. of any officer or sailor to obtain any wages, prize money, &c. thereupon, is felony without benefit of clergy.

[No. XIII.] 13 George III. c. 79.—An Act for the more effectual preventing the forging of the Notes or Bills of the Governor and Company of the Bank of *England*; and for the preventing the obtaining a false Credit, by the Imitation of the Notes or Bills of the said Governor and Company.

'WHEREAS frauds have lately been committed by forging the notes and 'bills of the Governor and Company of the Bank of *England*, not-'withstanding the statutes now in force for punishing and suppressing the 'same;' for the more effectual preventing such practices, be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the twenty-ninth day of *September*, which shall be in the year of our Lord one thousand seven hundred and seventy-three, if any person or persons (other than the officers, workmen, servants, or agents, for the time being, of the said governor and company, to be authorised and appointed for that purpose by the said governor and company, and for the use of the said governor and company only), shall make or use, or cause or procure to be made or used, or knowingly aid or assist in the making or using; or (without being authorised and appointed as aforesaid) shall knowingly have in his, her, or their custody or possession (without lawful excuse, the proof whereof shall lie upon the person accused), any frame, mould, or instru-

No. XIII. 13 Geo. III. c. 79.

Persons making frames, &c. for forging notes of the Bank of England, or having in their custody moulds or instruments for that purpose,

No. XIII. 13 Geo. III. c. 79.

ment, for the making of paper, with the words *Bank of England*, visible in the substance of such paper; or shall make, or cause or procure to be made, or knowingly aid or assist in the making any paper, in the substance of which the said words, *Bank of England*, shall be visible; or if any person (except as before excepted) after the said twenty-ninth day of *September*, shall, by any art, mystery, or contrivance, cause or procure the said words, *Bank of England*, to appear visible in the substance of any paper whatsoever, or knowingly aid or assist in causing the said words, *Bank of England*, to appear in the substance of any paper whatsoever; every person so offending in any of the cases aforesaid, and being thereof lawfully convicted, shall, for such offence, be deemed and adjudged a felon, and shall suffer death as in cases of felony, without benefit of clergy.

adjudged guilty of felony, &c.

II. 'And whereas unwary and other persons have taken in payment, and 'otherwise received, notes, inland bills, and bills of exchange, with certain 'words and characters so nearly resembling the notes and bills of the said 'governor and company, as to appear to such persons to be the notes or 'bills of the Bank of *England*, which, if continued to be done, will be to 'the great prejudice of publick credit:' Be it therefore enacted by the authority aforesaid, That from and after the said twenty-ninth day of *September*, if any person or persons, without being authorized and appointed as aforesaid, shall engrave, cut, etch, or scrape in mezzotinto, or shall cause or procure to be engraved, cut, etched, or scraped in mezzotinto, or shall knowingly aid or assist in the engraving, cutting, etching, or scraping in mezzotinto in or upon any plate of copper, brass, steel, pewter, or of any other metal or mixture of metals, or upon wood, or any other material, or any plate whatsoever, any promissory note, inland bill, or bill of exchange, or blank promissory note, inland bill, or bill of exchange, or part of a promissory note, inland bill, or bill of exchange, containing the words, *Bank of England*, or *bank post bill*, or any word or words expressing the sum or amount, or any part of the sum or amount of such promissory note, inland bill, or bill of exchange, in white letters or figures on a black ground; or shall use any such plate so engraved, cut, etched, or scraped in mezzotinto, or shall use any other instrument for the making or printing any such promissory note, inland bill, or bill of exchange, or blank promissory note, inland bill, or bill of exchange, or part of a promissory note, inland bill, or bill of exchange; if any person, without being authorised and appointed as aforesaid, shall, after the twenty-fifth day of *December*, which shall be in the year of our Lord one thousand seven hundred and seventy-three, knowingly have in his, her, or their custody, any such plate or instrument, or shall knowingly and wilfully utter or publish any such promissory note, inland bill, or bill of exchange, blank promissory note, inland bill, or bill of exchange; every such person so offending in any of the cases aforesaid, and being convicted thereof according to law, shall be committed to the common gaol of the county or place where the offence shall be committed, for any space not exceeding six months.

Persons engraving notes to resemble inland bills, &c.

shall be committed not exceeding six months.

III. Provided always, and it is hereby enacted, That nothing herein contained, shall extend or be construed to extend, to such person or persons who being at any time hereafter possessed of any such note or bill, shall only utter the same by carrying the same for payment to the issuer or issuers, drawer or drawers, accepter or accepters, indorser or indorsers thereof respectively, or using proper means to compel the payment of any such note or bill.

[No. XIV.] 18 George III. c. 18.—An Act to explain an Act, passed in the seventh Year of the Reign of his late Majesty King *George* the Second, intituled, *An Act for the more effectual preventing the forging the Acceptance of Bills of Exchange; or the Numbers or principal Sums of accountable Receipts for Notes, Bills, or other Securities for Payment of Money; or Warrants or Orders for Payment of Money or Delivery of Goods.*

No. XIV.
18 Geo. III. c. 18.
7 Geo. 2. c. 22.

'WHEREAS doubts have arisen whether the punishment inflicted by an Act of Parliament, made and passed in the seventh year of the reign of his late Majesty King *George* the Second, intituled, *An Act for the more effectual preventing the forging the Acceptance of Bills of Exchange; or the Numbers or principal Sums of accountable Receipts for Notes, Bills, or other Securities for Payment of Money; or Warrants or Orders for Payment of Money or Delivery of Goods*, on persons guilty of the several species of forgery therein mentioned, extends to such forgeries when committed with an intention to defraud any corporation:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person, from and after the twenty-fifth day of *March*, one thousand seven hundred and seventy-eight, shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly act or assist in the false making, altering, forging or counterfeiting, any acceptance of any bill of exchange, or the number or principal sum of any accountable receipt for any note, bill, or other security for payment of money, or any warrant or order for payment of money or delivery of goods, with intention to defraud any corporation whatsoever; or shall utter or publish as true, any false, altered, forged or counterfeited acceptance of any bill of exchange, or accountable receipt for any note, bill, or other security for payment of money, or warrant or order for payment of money or delivery of goods, with intention to defraud any corporation whatsoever, knowing the same to be false, altered, forged, or counterfeited; every such person, being thereof lawfully convicted, shall be deemed guilty of felony, and shall suffer death as a felon without benefit of clergy.

Persons convicted of forging, &c. with intent to defraud any corporation shall suffer death.

[No. XV.] 24 George III. ses. 2. c. 37.—An Act for granting to his Majesty certain additional Rates of Postage for Conveyance of Letters and Packets, by the Post, within the Kingdom of *Great Britain*; for preventing Frauds in the Revenue, carried on by the Conveyance of certain Goods in Letters and Packets; **and for further preventing Frauds and Abuses in relation to the sending and receiving of Letters and Packets free from Postage.**

No. XV.
24 Geo. III. ses. 2. c. 37.

IX. AND be it further enacted, That if any person whatsoever shall, from and after the end of this present session of Parliament, forge or counterfeit the hand-writing of any person whatsoever, in the superscription of any letter or packet to be sent by the post, in order to avoid the payment of the duty of postage, or shall forge, counterfeit, or alter, or shall procure to be forged, counterfeited, or altered, the date upon the superscription of any such letter or packet, or shall write and send by the post, or cause to be written and sent by the post, any letter or packet, the superscription or cover whereof shall be forged or counterfeited, or the date upon such superscription or cover altered, in order to avoid the payment of the duty of postage, knowing the same to be forged, counterfeited, or altered; every person so offending, and being thereof convicted in due form of law, shall be deemed guilty of felony, and shall be transported for seven years.

Penalty on counterfeiting the hand-writing of any person in the superscription of any letter, in order to evade the duty of postage.

[No. XVI.] 32 George III. c. 33.—An Act for explaining and amending an Act, passed in the thirty-first Year of the Reign of his late Majesty King *George* the Second, intituled, *An Act for the Encouragement of Seamen employed in the Royal Navy, and for establishing a regular Method*

for the punctual, frequent, and certain Payment of their Wages; and for enabling them more easily and readily to remit the same for the Support of their Wives and Families; and for preventing Frauds and Abuses attending such Payments; and for further extending the Benefits thereof to Petty Officers and Seamen, Non-commissioned Officers of Marines, and Marines, serving, or who may have served, on Board any of his Majesty's Ships.

No. XVI. 32 Geo. III. c. 33.

Persons counterfeiting tickets, &c. guilty of felony.

XXIII. AND be it further enacted, That if any person, from and after the said first day of *August*, one thousand seven hundred and ninety-two, shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly act and assist in the false making, forging, or counterfeiting, any ticket for the wages or pay due to any petty officer or seaman, non-commissioned officer of marines, or marine, for his services on board any ship or vessel of his Majesty, his heirs or successors, or any duplicate of any such ticket, or any certificate of discharge from any naval hospital of his Majesty, his heirs or successors, or any remittance bill, or duplicate of remittance bill, with intention to receive any wages, pay, or other allowances of money, or prize money, due, or supposed to be due, for or on account of the service of any petty officer or seaman, non-commissioned officer of marines, or marine, on board any ship or vessel of his Majesty, his heirs or successors, or shall utter or publish as true any ticket for the wages or pay due to any petty officer or seaman, non-commissioned officer of marines, or marine, for his service on board any ship or vessel of his Majesty, his heirs or successors, or any duplicate of any such ticket, or any certificate of discharge from any naval hospital of his Majesty, his heirs or successors, or any remittance bill, or duplicate of remittance bill, with intention to receive any wages, pay, or other allowances of money, or prize money, due, or supposed to be due, for or on account of the service of any petty officer or seaman, non-commissioned officer of marines, or marine, on board any ship or vessel of his Majesty, his heirs or successors, knowing the same to be false, forged, or counterfeited, then every such person so offending, being lawfully convicted of any such offence or offences, shall be deemed guilty of felony, and suffer death as a felon without benefit of clergy.

[No. XVII.] 33 George III. c. 30.—An Act for the better preventing Forgeries and Frauds in the Transfers of the several Funds transferrable at the Bank of *England*.—[30th *April* 1793.]

No. XVII. 33 Geo. III. c. 30.

'WHEREAS the laws now in being have been found insufficient to prevent forgeries and frauds in the transferring stocks, annuities, and 'other publick funds, transferrable at the Bank of *England*: And whereas, 'for the better preventing such forgeries and frauds in future, it is neces- 'sary that further provision should be made, as well to prevent frauds 'practised by persons taking upon themselves to make transfers, in the 'books of the governor and company of the Bank of *England*, of stock or 'annuities, or other funds, transferrable as aforesaid, whereof such per- 'sons are not the true owners and proprietors, as to prevent forgeries of 'such transfers in the names of the true owners or proprietors: And 'whereas it is also necessary, the better to prevent such forgeries and 'frauds, that the publick accounts between the governor and company of 'the Bank of *England* and the several owners and proprietors of stock, 'annuities, and other funds, transferrable at the Bank of *England*, should 'be secured from falsification by means of false entries therein, or of the 'alteration of any of the words or figures thereof, or by any other ways or 'means whatsoever:' May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most Excellent Majesty, by and

No. XVII.
33 Geo. III. c. 30.

with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the tenth day of *May*, one thousand seven hundred and ninety-three, if any person or persons shall wilfully make, or assist in making, any transfer (1) of any interest, part, or share of or in any stock or stocks, annuity or annuities, or other funds, transferrable at the Bank of *England*, in any of the books of the said governor and company of the Bank of *England*, in which transfers of stock, annuities, or other funds, as aforesaid are made, in the name or names of any person or persons not being the owner or owners, or proprietor or proprietors, of such stock, annuities, or other funds, transferrable as aforesaid, with intent to defraud the said governor and company of the Bank of *England*, or any other body politick or corporate, or any person or persons whatsoever, such person or persons so making, or assisting in making, such transfer as aforesaid, shall be deemed guilty of felony, and shall suffer death as a felon or felons, without benefit of clergy.

Persons making, or assisting in making transfers of stock in any other names than the owners, guilty of felony;

II. And be it further enacted by the authority aforesaid, That if any person or persons whatsoever shall, from and after the tenth day of *May*, one thousand seven hundred and ninety-three, falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or shall willingly act or assist in the falsely making, forging, or counterfeiting of any transfer of any interest, part, or share of or in any stock or stocks, annuity or annuities, or other funds, transferrable, or which, by any Act or Acts of Parliament, shall hereafter be made transferrable, at the Bank of *England*, or of or in the capital stock belonging, or which hereafter shall or may belong to the said governor and company of the Bank of *England*, called *Bank Stock*, or shall utter or publish as true any such false, forged, or counterfeited transfer as aforesaid, knowing the same to be false, forged, or counterfeited, with intent to defraud the said governor and company of the Bank of *England*, or any other body politick or corporate, or any person or persons whatsoever; all and every person or persons whatsoever so offending shall be deemed guilty of felony, and shall suffer death as a felon or felons without benefit of clergy.

also persons forging or assisting in forging transfers, &c.

III. And be it further enacted by the authority aforesaid, That, from and after the said tenth day of *May*, one thousand seven hundred and ninety-three, if any person or persons shall wilfully make, or assist in making, any false entry, or shall wilfully alter, or assist in altering, any word or figure in any entry in the books of account kept by the said governor and company of the Bank of *England*, wherein the several accounts of the owners or proprietors of stock, annuities, or other funds, transferrable at the Bank of *England*, are entered and kept, or shall in any manner wilfully falsify the accounts of such owners and proprietors in the books of the said governor and company, wherein such accounts are entered and kept, with intent to defraud the said governor and company of the Bank of *England*, or any other body politick or corporate, or any person or persons whatsoever, every such person or persons so offending shall be deemed guilty of felony, and shall suffer death as a felon or felons without benefit of clergy.

and also persons making, or assisting in making, false entries in the books of the Bank, &c.

IV. 'And whereas, in order to cover and conceal forgeries and frauds in 'transfers, dividend warrants have been sometimes made out for different 'sums than the sums really due;' Be it therefore further enacted by the

Persons making out, &c. false divi-

(1) An indictment charging that W. H. was possessed of and intitled to 50*l.* interest on sums in the consolidated 3 per cent. annuities; the prisoner did forge a transfer, with the name of the said W. H. subscribed thereto. It was objected, that it was required by stat. 33 Geo. III. c. 28. that persons to whom transfers are made shall underwrite their acceptance, and that no other method of transferring shall be valid; and that for want of this compliance by W. H. he was not possessed, and that till acceptance there could be no complete transfer; and that the instrument offered as a transfer in the name of W. H. was not witnessed: but ruled by the judges, that the stock vested in W. H. by the mere act of transferring into his name; that the nature of the offence would not have been altered if W. H. had not had any stock; that the entry and signatures were a complete transfer, without the attestation of witnesses, which was no part of the instrument, but only required by the bank *ex abundanti Cautelâ*; Gade's case, E. P. C. ch. 19. § 9; Leach, Ca. 293.

No. XVII. 33 Geo. III. c. 30.

authority aforesaid, That if any clerk, officer, or servant of, or other person or persons employed or intrusted by, the said governor and company shall, from and after the said tenth day of *May*, one thousand seven hundred and ninety-three, knowingly or willingly make out or deliver, or cause or procure to be made out or delivered, or willingly act or assist in the making out or delivering, of any dividend warrant for a greater or less amount than the person or persons, on whose behalf, or pretended behalf, such dividend warrants shall be made out, is or are entitled to, with intent to defraud the said governor and company of the Bank of *England*, or any other body politick or corporate, or any person or persons whatsoever, all and every such person or persons so offending, and being in due form of law convicted of any such offence or offences as aforesaid, shall be transported for seven years.

dend warrants to be transported for 14 years.

[No. XVIII.] 35 George III. c. 66.—An Act for making Part of certain Principal Sums or Stock and Annuities raised or created, or to be raised or created, by the Parliament of the Kingdom of *Ireland*, on Loans, for the Use of the Government of that Kingdom, transferrable, and the Dividends on such Stock and Annuities payable at the Bank of *England*; and for the better Security of the Proprietors of such Stocks and Annuities, and of the Governor and Company of the Bank of *England*.—[19*th May*, 1795.]

[No. XIX.] 37 George III. c. 46.—An Act for making certain Annuities, created by the Parliament of the Kingdom of *Ireland*, transferrable, and the Dividends thereon payable, at the Bank of *England*; and for the better Security of the Proprietors of such Annuities, and of the Governor and Company of the Bank of *England*.—3*d May*, 1797.

[No. XX.] 37 George III. c. 122.—An Act for the better preventing the forging or counterfeiting the Names of Witnesses to Letters of Attorney, or other Authorities or Instruments, for the Transfer of Stocks or Funds, which now are, or by any Act or Acts of Parliament shall hereafter be made, transferrable at the Bank of *England*; or for the Transfer of any Part of the Capital Stock of the Governor and Company of the Bank of *England* called *Bank Stock*; or for the Transfer of any Part of the Capital Stock, or any Stocks or Funds under the Management of the *South Sea* Company; or for the Transfer of any Part of the Capital Stock of the *East India* Company; or for the Receipt of Dividends upon any of such Stocks or Funds.—[19*th July*, 1797.]

No. XX. 37 Geo. III. c. 122.

'WHEREAS by the several Acts of Parliament creating and authorizing 'the transfer and management of the public stocks, funds, and annu- 'ities, transferrable at the Bank of *England*, it is provided, that all assign- 'ments, or transfers thereof, shall be entered and registered in books to be 'kept by the accountant-general of the governor and company of the Bank 'of *England*, which entries shall be signed by the parties making such as- 'signments or transfers, or if such parties be absent, by their respective at-

'torney or attornies thereunto lawfully authorized in writing under his, 'her, or their hand and seal, or hands and seals, to be attested by two or 'more credible witnesses; and the same regulation is prescribed and ob- 'served with respect to the attestation of letters of attorney for the transfer 'of any part of the capital stock of the said governor and company called '*Bank stock*: And whereas, by an Act of Parliament made and passed in 'the ninth year of the reign of her late Majesty Queen *Anne*, and by the 'charter of the company of merchants of *Great Britain* trading to the *South* '*Seas* and other parts of *America*, and for encouraging the fishery, com- 'monly called *The South Sea* Company, and by several Acts of Parliament, 'creating and authorizing the transfer and management of the stock of the 'said company commonly called *South Sea stock*, and other stocks and funds 'arising thereout, or transferrable at the *South Sea* House, it is provided, 'that all assignments and transfers thereof shall be entered and registered 'in books kept by the said governor and company, which entries shall be 'signed by the parties making such assignments and transfers, or if such 'parties be absent, by their respective attorney or attornies thereunto law- 'fully authorized, in writing under his, her, or their hand and seal, or hands 'and seals: And whereas all assignments and transfers of the capital stock 'of the united company of merchants of *England*, trading to the *East In-* 'dies, are entered and registered in books kept by the said united company, 'and such assignments and transfers shall be signed by the parties making 'the same; and if such parties be absent, then by their respective attorney 'or attornies, thereunto authorized in writing under his or their hand and 'seal, or hands and seals: And whereas it is expedient that provision 'should be made for the prevention of all frauds and impositions upon the 'said respective governors and companies, and the said united company, 'respecting the transfer of, or the receipt of dividends upon, any of the 'public funds or annuities, transferrable at the Bank of *England*, or of 'Bank stock, or of the capital stock of the said *South Sea* Company, or of 'the said united company, or any other stocks or funds arising thereout, 'or transferrable, or which shall hereafter be made transferrable, at the '*South Sea* House or *East India* House respectively:' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons whatever shall, from and after the first day of *August* one thousand seven hundred and ninety-seven, falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or shall willingly act or assist in the falsely making, forging, or counterfeiting, the name or names, hand writing or hands writing, of any person or persons as, or purporting to be, the witness or witnesses attesting the execution of any letter of attorney, or other authority or instrument, to transfer, assign, sell, or convey, any interest, part, or share, of or in any stock or stocks, annuity or annuities, or other funds, or the dividends thereof, transferrable, or which, by any Act or Acts of Parliament, shall hereafter be made transferrable at the Bank of *England*, or of or in the capital stock belonging, or which hereafter shall or may belong, to the governor and company of the Bank of *England*, called *Bank stock*, or to the governor and company of merchants of *Great Britain* trading to the *South Seas* and other parts of *America*, and for encouraging the fishery as aforesaid, or under their care or management, or of or in the capital stock belonging, or which hereafter shall or may belong, to the said united company of merchants of *England* trading to the *East Indies*, commonly called *East India stock*, or of any letter of attorney, or other authority or instrument, to receive any dividend or dividends, on any of the said stocks, annuities, or other funds, or shall utter or publish, as true, any such letter of attorney, or other authority or instrument, containing such false, forged, or counterfeited name or names, hand writing or hands writing, of such attesting witness or witnesses as aforesaid, knowing such name or names, hand writing or hands writing, to be false, forged, or counterfeited; all and every person or persons whatever so offending, and being in due form of law convicted of any such offence or offences as aforesaid, shall be adjudged guilty of felony, and shall be transported for seven

Persons forging the names of witnesses to instruments for the transfer, or receipt of dividends, of stocks at the Bank, or of the South Sea or East India Company's stocks, to be guilty of felony.

No. XX. 37 Geo. III. c. 122.

years, or shall be adjudged to suffer such lesser punishment as the Court, before whom such offender or offenders shall be tried, shall think fit to award.

Public Act.

II. And be it further enacted by the authority aforesaid, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of, by all judges, justices, and other persons whomsoever, without the same being specially pleaded.

[No. XXI.] 41 George III. (U. K.) c. 39.—An Act for the more effectually preventing the Forgery of Bank Notes, Bank Bills of Exchange, and Bank Post Bills.—[21*st May* 1801.]

[Superseded by 45 Geo. III. c. 89.]

[No. XXII.] 41 George III. (U. K.) c. 57.—An Act for the better Prevention of the Forgery of the Notes and Bills of Exchange of Persons carrying on the Business of Bankers.—[20*th June* 1801.]

No. XXII. 41 Geo. III. c. 57.

After July 10, 1801, if any person shall make or use any frame or mould for making paper, with the name or firm of any bankers appearing in the substance of the paper, without a written authority for that purpose, or shall make or vend such paper, or cause such name or firm to appear in the substance of the paper whereon the same shall be written or printed, he shall be imprisoned for the first offence (from two years to six months;) and for the second transported for seven years.

"WHEREAS it is expedient to prevent the crime of forgery in all parts of the united kingdom of *Great Britain* and *Ireland*;" Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons, in any part of the united kingdom of *Great Britain* and *Ireland*, from and after the tenth day of *July* one thousand eight hundred and one, shall make or cause or procure to be made, or knowingly aid or assist in the making or using, of any frame, mould, or part of any frame or mould, for the making of paper, with the name or firm appearing visible in the substance of the paper, of any person or persons, body corporate, or other banking company or partnership, carrying on the business of bankers, without an authority in writing for that purpose from such person or persons, body corporate, or other banking company or partnership, or from some person or persons duly authorized to give such authority; or shall manufacture, make, vend, expose to sale, publish or dispose of, or cause or procure to be manufactured, made, vended, or exposed to sale, published or disposed of, any paper having the name or firm, appearing visible in the substance of the paper, of any person or persons, body corporate, or other banking company or partnership whatsoever, carrying on the business of bankers; or if any person or persons without such authority, shall by any art, means, mystery, or contrivance, cause or procure, or shall knowingly aid or assist in causing or procuring the name or firm of any person or persons, body corporate, or other banking company or partnership carrying on the business of bankers, to appear visible in the substance of the paper whereon the same shall be written or printed, every person or persons so offending in any of the cases aforesaid, and being convicted thereof according to law, shall for the first offence be imprisoned for any time not exceeding two years nor less than six months, and for the second offence be transported to any of his Majesty's colonies or plantations for the term of seven years.

The like punishment on any person who

II. And be it further enacted, That if any person or persons, in any part of the united kingdom of *Great Britain* and *Ireland*, from and after the said tenth day of *July* one thousand eight hundred and one, shall engrave, cut, etch, scrape, or by any other means or device make, or shall cause or procure to be engraved, cut, etched, scraped, or by any other means or device made, or shall knowingly aid or assist in the engraving, cutting, etching, scraping, or by any other means or device making, in or upon any plate whatsoever, any bill of exchange, promissory note, or other note for the payment of money, or part of any bill of exchange, promissory note, or other note for the payment of money, purporting to be the bill of ex-

No. XXII. 41 Geo. III. c. 57.

change, promissory note, or other note for the payment of money, of any person or persons, body corporate, banking company or partnership, carrying on the business of bankers, without an authority in writing for that purpose from such person or persons, body corporate, banking company or partnership, or some person or persons duly authorized to give such authority; or shall use any such plate so engraved, cut, etched, scraped, or by any other means or device made, or shall use any other device for the making or printing any such bill of exchange, promissory note, or other note for the payment of money, without such authority in writing as aforesaid; or if any person or persons shall, after the said tenth day of *July* one thousand eight hundred and one, without such authority as aforesaid, knowingly have in his her, or their custody, any such plate or device, or shall, without such authority as aforesaid, knowingly and wilfully publish, dispose of, or put away any such bill of exchange, promissory note, or other note for the payment of money; or part of such bill of exchange, promissory note, or other note for the payment of money; every person so offending in any of the cases aforesaid, and being convicted thereof according to law, shall, for the first offence, be imprisoned for any time not exceeding two years nor less than six months, and for the second offence be transported to any of his Majesty's colonies or plantations for the term of seven years.

shall without authority engrave, &c. any bill or note of any banker, or use any plate so engraved, or any device for making or printing such bill or note, or shall knowingly have such plate, &c. in his custody, or shall utter such bill, &c.

III. And be it further enacted, That if any person or persons in any part of the united kingdom of *Great Britain* and *Ireland*, from and after the tenth day of *July* one thousand eight hundred and one, shall engrave, cut, or etch, or by any other means or contrivance trace with a hair stroke or other mode of delineation, on any plate whatsoever, any of the subscriptions subjoined to any bill of exchange, promissory note, or other note for the payment of money, of any person or persons, body corporate, or other banking company or partnership carrying on the business of bankers, to be payable to bearer on demand, or shall have in his, her, or their possession any plate with the hair strokes or other delineation of any subscription traced thereon, subjoined to any bill of exchange, promissory note, or other note for the payment of money, purporting to be the bill of exchange and promissory note, or other note for the payment of money, of any person or persons, body corporate, or other banking company or partnership, carrying on the business of bankers, and to be payable to the bearer on demand, and shall not be able to prove that such plate came into his, her, or their possession without his, her, or their knowledge or consent; any person so offending in any of the cases aforesaid, and being convicted thereof according to law, shall for the first offence be imprisoned for any time not exceeding three years nor less than twelve months, and for the second offence be transported to any of his Majesty's colonies or plantations for the term of seven years.

If any person shall engrave, &c. on any plate any subscriptions subjoined to any bill or note of any person or banking company, payable to bearer on demand, or have in his possession any such plate, he shall for the first offence be imprisoned (from three years to 12 months,) and for the second, transported for seven years.

[No. XXIII.] 43 George III. c. 139.—An Act for preventing the forging and counterfeiting of foreign Bills of Exchange, and of foreign Promissory Notes and Orders for the Payment of Money; and for preventing the counterfeiting of foreign Copper Money.—[11*th August* 1803.]

[Inserted Class III. No. 78.]

[No. XXIV.] 45 George III. c. 89.—An Act to alter and extend the Provisions of the Laws now in force for the Punishment of the Forgery of Bank Notes, Bills of Exchange, and other Securities, to every Part of *Great Britain*.—[10*th July* 1805.]

No. XXIV. 45 Geo. III. c. 89.

'WHEREAS by an Act passed in the second year of the reign of his late Majesty King *George* the Second, intituled, *An Act for the more effectual preventing and further Punishment of Forgery, Perjury and Subornation of Perjury, and to make it Felony to steal Bonds, Notes, or other Securities for Payment of Money;* and also by an Act, passed in the seventh year of the reign of his said Majesty King *George* the Second, intituled, *An Act for the more effectual preventing the forging or acceptance of Bills of Exchange, or the Numbers or principal Sums of accountable Receipts for Notes, Bills, or other Securities for payment of Money, or Warrants or Orders for payment of Money or delivery of Goods;* and also by an Act passed in the thirty-first year of the reign of his said Majesty King *George* the Second, intituled, *An Act for granting to his Majesty several Rates and Duties upon Offices and Pensions, and upon Houses, and upon Windows or Lights, and for raising the Sum of five Millions by Annuities and a Lottery, to be charged on the said Rates and Duties;* and also by an Act, passed in the fifteenth year of the reign of his said Majesty King *George* the Second, intituled, *An Act for establishing an Agreement with the Governor and Company of the Bank of* England, *for advancing the Sum of one million six hundred thousand Pounds towards the Supply for the Service of the Year one thousand seven hundred and forty-two;* and also by an Act, passed in the forty-first year of the reign of his present Majesty King *George* the Third, intituled, *An Act for the more effectually preventing the Forgery of Bank Notes, Bank Bills of Exchange, and Bank Post Bills,* certain provisions were made and enacted for the preventing and punishing the forgery of bank notes, and other notes, bills, and instruments, in these Acts respectively mentioned: And whereas it is expedient that such provisions should extend and be in force in every part of *Great Britain,* with such alterations and amendments therein as are hereby made;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons shall, from and after the passing of this Act, falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, or willingly act or assist in the false making, forging, counterfeiting, or altering any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for payment of money, indorsement or assignment of any bill of exchange or promissory note for payment of money, acceptance of any bill of exchange, or any acquittance or receipt either for money (1) or goods, or any accountable receipt (2) for any note, bill, or other security for payment of money, or any warrant or order (3) for payment of money

2 G. 2. c. 25.

7 G. 2. c. 22.

31 G. 2. c. 22.

15 G. 2. c. 13.

41 G. 3. (U.K.) c. 39.

Persons forging deeds or wills, or securities, receipts, or orders for money, &c. or uttering any such with intent to defraud any person or corporation, guilty of felony without clergy.

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(1) "*Received the contents above,*" subjoined to an account, held a receipt for money; and that it was not necessary to set out the account in the indictment; Testick's case, E. P. C. ch. 19. § 36.

A receipt for bank notes not a receipt for money; Harrison's case, Leach, ca. 91; East, ub. supra. A signature of a name, subscribed to a navy bill and assignment, cannot be charged as a receipt without connecting it as such with the navy bill by averment; Hunter's case, East, ibid.; Leach, ca. 273.

A receipt for scrip, with a blank for the name of the person of whom received, is not a receipt for money; Lyon's case, East, ibid.; Leach, ca. 267. The forgery of receipts as given to an executor of an accountant for money as paid by him, made by a person undertaking to pass his accounts, in order to get rid of an extent, is within the Act; Thomas's case, East, ibid.

(2) An entry in a banker's book of monies, as paid into the bank by a customer, said to be an accountable receipt; Harrison's case, Leach, ca. 91; admitted, Lyon's case, Leach, ca. 273; E. P. C. ch. 19. § 36.

(3) See E. P. C. ch. 19. § 37. The warrant or order must appear on the face of it, or by averment, to be made by a person having authority to give such order; and not a mere request to deliver goods on credit, undertaking to be responsible; *R. v.* Mitchell, Foster, 119; Williams's case, Leach, ca. 69. So a note soliciting money; Ellor's case, Leach, ca. 156.

In addition to the above point, it was held in Chrich's case, Leach, ca. 244. that an order must be directed to some person; and that stating an order to be made by the servant of the owner of the goods is not sufficient, without shewing an authority in the servant to give such order. But if an order

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or delivery of goods, with intention to defraud any person or persons, body or bodies politic or corporate whatsoever; or shall offer, dispose of, or put away any false, forged, counterfeited, or altered deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for payment of money, indorsement or assignment of any bill of exchange or promissory note for payment of money, acceptance of any bill of exchange, acquittance, or receipt, either for money or goods, accountable receipt for any note, bill, or other security for payment of money, warrant or order for payment of money or delivery of goods, with intention to defraud any person or persons, body or bodies politick or corporate, knowing the same to be false, forged, counterfeited, or altered, then every person or persons so offending, and being thereof lawfully convicted according to the due course of law, shall be deemed guilty of felony, and shall suffer death as a felon without benefit of clergy.

Forging or uttering bank notes, dividend warrants, &c. felony without clergy.

II. And be it further enacted, That if any person or persons shall, from and after the passing of this Act, forge, counterfeit, or alter any bank note, bank bill of exchange, dividend warrant, or any bond or obligation under the common seal of the governor and company of the Bank of *England*, or any indorsement thereon, or shall offer or dispose of or put away any such forged, counterfeit, or altered note, bill, dividend warrant, bond, or obligation, or the indorsement thereon, or demand the money therein contained or pretended to be due thereon, or any part thereof, of the said company, or any their officers or servants, knowing such note, bill, dividend warrant, bond, or obligation, or the indorsement thereon, to be forged, counterfeited, or altered, with intent to defraud the said governor and company, or their successors, or any other person or persons, body or bodies politick or corporate whatsoever, every person or persons so offending, and being thereof convicted in due form of law, shall be deemed guilty of felony, and shall suffer death as a felon without benefit of clergy.

If any person (not authorized by the bank) shall use or have any frame, &c. for making paper with curved bar lines or sums in words appearing in the substance of the paper; or make, use, or sell such paper; or cause the sum

III. And be it further enacted, That if any person or persons (other than the officers, workmen, servants or agents for the time being of the governor and company of the Bank of *England*, to be authorized and appointed for that purpose by the said governor and company, and for the use of the said governor and company only) shall, from and after the passing of this Act, make or use, or cause or procure to be made or used, or knowingly aid or assist in the making or using, or (without being authorized or appointed as aforesaid) shall knowingly have in his, her, or their custody or possession (without lawful excuse, the proof whereof shall lie upon the party accused) any frame, mould, or instrument for the making of paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum, or amount, expressed in a word or words in roman letters visible in the substance of such paper; or shall manufacture, make, use, vend, expose to sale, publish, or dispose of, or cause or procure to be manufactured, made, used, vended, exposed to sale, published, or disposed of, or aid or assist in the

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(as the draft on a banker) appears on the face of it to be made by a person assuming a right to give it, it is sufficient, although there may be no such person in existence; Lockett's case, Leach, ca. 53.; Abraham's case, Leach, ca. 38.

The particular goods need not be specified. —"*Deliver my work to the bearer*," held sufficient, where a silversmith has sent goods to the plate office to be stamped; Jones's case, 1 Leach, 53; East, ch. 19. § 39. There does not appear to have been in that case, any special averment of there being any goods to which the order could apply. An order from a seaman, for the payment of his prize money, without specifying the amount, and although not made in conformity with the regulations of 32 Geo. III. c. 34, respecting prize money, held an order for payment of money; Mackintosh's case, East, ch. 19. § 39. A bill of exchange may be stated as an order for payment of money; R. *v.* Shepperd, Leach, ca. 113.; Willoughby's case, (on an indictment for larceny) East, ch. 16. § 40. An order of a magistrate to pay the reward of 10*s.* for apprehending a vagrant, was held within the Act, (7 Geo. II. c. 22.) although objected that by 17 Geo. II. c. 5. § 5. the officer was subject to a pecuniary penalty, and that that Act was subsequent to 7 Geo. II. upon which the felony was charged. This general objection is allowed in several other cases; but Q. Whether it can now be applied to the particular case, the general offence of forging orders being a felony by 45 Geo. III.?

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manufacturing, making, using, vending, exposing to sale, publishing, or disposing of, or (without being authorized or appointed as aforesaid) shall knowingly have in his, her, or their custody or possession, any paper whatsoever with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or having any number, sum, or amount expressed in a word or words in roman letters appearing visible in the substance of such paper; or if any person or persons (except as before excepted) shall, by any art, mystery, or contrivance, cause or procure the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words to appear visible in the substance of the paper whereon the same shall be written or printed; or shall knowingly aid or assist in causing the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words in roman letters to appear visible in the substance of the paper whereon the same shall be written or printed; every person or persons so offending in any of the cases aforesaid, and being convicted thereof according to law, shall be adjudged a felon, and shall be transported for the term of fourteen years.

of any bank note, &c. so to appear in the paper; or assist in so doing; such offenders shall be adjudged felons, and transported for 14 years.

IV. Provided also, and be it further enacted, That nothing herein contained shall extend, or to be construed to extend, to restrain any person or persons from issuing or negociating any bill or bills of exchange, promissory note or promissory notes, having the sum or amount thereof expressed in guineas, or in a numerical figure or figures, denominating the sum or amount thereof in pounds sterling, appearing visible on the substance of the paper upon which the same shall be written or printed; any thing herein contained to the contrary thereof in anywise notwithstanding.

Not to restrain the issue, &c. of bills with the amount expressed in guineas, or pounds sterling in figures in the paper.

V. Provided also, and be it further enacted, That nothing in this Act contained shall restrain or prevent any person or persons from making, using, vending, exposing to sale, publishing, or disposing of any paper having waving or curved lines, or any other devices in the nature of watermarks visible in the substance of the paper, not being bar lines or laying wire lines, provided the same are not contrived in such manner as to form the ground-work or texture of the paper, or to imitate or resemble the waving or curved laying wire lines or bar lines of the said paper of the governor and company of the Bank of *England*, or to imitate or resemble the watermarks used by the governor and company of the Bank of *England* in the bank notes, bank bills of exchange, and bank post bills, issued by the said governor and company; any thing herein contained to the contrary thereof in anywise notwithstanding.

Not to restrain persons from making or using paper with devices in the nature of watermarks not resembling the watermarks, &c. used by the bank.

VI. And be it further enacted, That if any person or persons shall, from and after the passing of this Act, purchase or receive from any other person or persons, any forged or counterfeited bank note, bank bill of exchange, bank post bill, or blank bank note, blank bill of exchange, or blank bank post bill, knowing the same to be forged or counterfeited; or shall knowingly or wittingly have in his, her, or their possession or custody, or in his, her, or their dwelling-house, out-house, lodgings, or apartments, any forged or counterfeited bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, knowing the same to be forged or counterfeited, (without lawful excuse, the proof whereof shall lie upon the person accused,) every person or persons so offending, and being thereof convicted according to law, shall be adjudged a felon, and shall be transported for the term of fourteen years.

Persons knowingly receiving or having forged bank notes, &c. or blank bank notes, &c. shall be adjudged felons and transported for 14 years.

VII. And be it further enacted, That if any person or persons, from and after the passing of this Act, shall engrave, cut, etch, scrape, or by any other means or device make, or shall cause or procure to be engraved, cut, etched, scraped, or by any other means or device made, or shall knowingly aid or assist in the engraving, cutting, etching, scraping, or by any other means or device making, in or upon any plate of copper, brass, steel, pewter, or of any other metal or mixture of metals, or upon any wood or any other materials, or any plate whatsoever, any bank note, bank bill of exchange, bank post bill, or blank bank note, blank bank bill of exchange, or blank bank

Like punishment for persons engraving, &c. any blank bank note, bank note, &c. or part thereof, using any such plate, or any device for

post bill, or part of a bank note, bank bill of exchange, or bank post bill, purporting to be the note, or bill of exchange, or bank post bill, or blank bank note, or blank bank bill of exchange, or blank bank post bill, or part of the note, or bill of exchange, or bank post bill of the governor and company of the Bank of *England*, without any authority in writing, for that purpose, from the said governor and company of the Bank of *England;* or shall use any such plate so engraved, cut, etched, scraped, or by any other means or device made, or shall use any other instrument or device for the making or printing any such bank note, bank bill of exchange, or bank post bill, or blank bank note, or blank bank bill of exchange, or blank bank post bill, or part of a bank note, or bank bill of exchange, or bank post bill, without such authority in writing as aforesaid; or if any person or persons shall, from and after the passing of this Act, without such authority as aforesaid, knowingly have in his, her, or their custody, any such plate, instrument, or device, or shall, without such authority as aforesaid, knowingly and wilfully utter, publish, dispose of, or put away, any such blank bank note, blank bank bill of exchange, or blank bank post bill, or part of such bank note, bank bill of exchange, or bank post bill; every person so offending in any of the cases aforesaid, and being convicted thereof according to law, shall be adjudged a felon, and shall be transported for the term of fourteen years.

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making or printing any such bank note, &c. without the authority of the bank; or having any such plate, or uttering any such blank bank note or part of bank note.

VIII. And be it further enacted, That all and every the clauses and provisions in this Act contained shall extend, and be deemed and construed to extend, by all courts, judges, and magistrates whatsoever, to every part of *Great Britain;* any thing hereinbefore contained, or any law, statute, or usage to the contrary notwithstanding.

Act shall extend to the whole of Great Britain.

[No. XXV.] 52 George III. c. 138.—An Act for the further Prevention of the counterfeiting of Silver Tokens issued by the Governor and Company of the Bank of *England*, called *Dollars*, and of Silver Pieces issued and circulated by the said Governor and Company, called *Tokens;* **and for the further Prevention of Frauds practised by the Imitation of the Notes or Bills of the said Governor and Company.** [20*th July* 1812.]

'V. AND whereas divers frauds have been practised, by making and publishing papers with certain words and characters so nearly resembling the notes and bills of the governor and company of the Bank of *England*, as to appear to ignorant and unwary persons to be the notes or bills of the said governor and company:' For prevention whereof, be it enacted, That if any person, from and after the first day of *August* one thousand eight hundred and twelve, shall engrave, cut, etch, scrape, or by any other means or device make, or shall cause or procure to be engraved, cut, etched, scraped, or by any other means or device made, or shall knowingly aid or assist in the engraving, cutting, etching, scraping, or by any other means or device making, in or upon any plate of copper, brass, steel, pewter, or of any other metal or mixture of metals, or upon wood or any other materials, or upon any plate whatsoever, any word or words, figure or figures, character or characters, the impression taken from which shall resemble, or be apparently intended to resemble, the whole or any part of any of the notes or bills of the said governor and company, commonly called *bank notes* and *bank post bills*, or shall contain any word, number, figure, or character in white, on a black, sable, or dark ground, without an authority in writing for that purpose from the said governor and company, to be produced and proved by the party accused, or shall (without such authority as aforesaid) use any such plate, wood, or other material so engraved, cut, etched, scraped, or by any other means or device made, or shall use any other instrument or device for the making or printing upon any paper or other material, any word or words, figure or figures, character or characters, which shall be apparently intended to resemble the whole or any

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Punishment of persons engraving any plate, &c. the impression taken from which shall resemble Bank of England notes, or uttering any paper resembling such notes.

No. XXV. 52 Geo. III. c. 138.

part of any of the said notes or bills of the said governor and company, or any word, number, figure, or character in white, on a black, sable, or dark ground; or if any person or persons shall, from and after the first day of *August* one thousand eight hundred and twelve, (without such authority as aforesaid,) knowingly have in his, her, or their custody, any such plate, instrument, or device, or shall knowingly and wilfully utter, publish, or dispose of, or put away, any paper or other material containing any such word or words, figure or figures, character or characters as aforesaid, or shall knowingly or wittingly have in his, her, or their custody or possession, any paper or other material containing any such word or words, figure or figures, character or characters as aforesaid (without lawful excuse, the proof whereof shall lie upon the person accused); every person so offending in any of the cases aforesaid, and being convicted thereof according to law, shall be adjudged a felon, and shall be transported for the term of fourteen years.

[No. XXVI.] 52 George III. c. 143.—An Act for amending and reducing into one Act, the Provisions contained in any Laws now in force, imposing the penalty of death for any act done in breach of or in resistance to any part of the Laws for collecting his Majesty's Revenue in *Great Britain*. [23*d July* 1812.]

[No. XXVII.] 1 George IV. c. 92.—An Act for the further Prevention of forging and counterfeiting of Bank Notes. [24*th July* 1820.]

No. XXVII. 1 Geo. IV. c. 92.

WHEREAS the forgery of bank notes hath of late very much increased in this kingdom; and as well for the prevention thereof, as to facilitate the detection of the same, the governor and company of the Bank of *England* have, after great consideration, labour and expence, formed a new plan for printing bank notes, in which the groundwork of each bank note will be black or coloured, or black and coloured line work, and the words "Bank of *England*" will be placed at the top of each bank note, in white letters upon a black, sable, or dark ground, such ground containing white lines intersecting each other, and the numerical amount or sum of each bank note in the body of the note will be printed in black and red register work, and the back of each note will distinctly show the whole contents thereof, except the number and date in a reversed impression: Therefore, for the better prevention of the forgery of bank notes, and for the security of the public; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, if any person or persons (other than the officers, workmen, servants, and agents for the time being of the said governor and company, to be authorized and appointed for that purpose by the said governor and company, and for the use of the said governor and company only) shall engrave, cut, etch, scrape, or by any other art, means, or device make, or shall cause or procure to be engraved, cut, etched, scraped, or by any other art, means, or device made, or shall knowingly aid or assist in the engraving, cutting, etching, scraping, or by any other art, means or device, making, in or upon any plate of copper, brass, steel, iron, pewter, or of any other metal or mixtures of metal, or upon wood or other materials, or any plate whatsoever, for the purpose of producing a print or impression of all or any part or parts of a bank note, or of a blank bank note, of the said governor and company, of the description aforesaid, without an authority in writing from the said governor and company, or shall use any such plate so engraved, cut, etched, scraped, or by any other art, means or device made, or shall use any other instrument or contrivance for the making or printing any such bank note or blank bank

Punishment of persons engraving, &c. on any plate for producing an impression of all or any part of a bank note of the Bank of England without authority;

or using such plate;

note, or part of a bank note of the description aforesaid; or if any person or persons shall, from and after the passing of this Act, without such authority as aforesaid, knowingly and without lawful excuse, have in his, her, or their custody any such plate or instrument, or without such authority as aforesaid, shall knowingly or wilfully utter, publish, dispose of, or put away any such blank bank note, or part of such bank note, of the description aforesaid; every person so offending in any of the cases aforesaid, and being thereof convicted according to law, shall be adjudged a felon, and shall be transported for the term of fourteen years.

or having such plate in custody; or uttering any impression from it: transportation for 14 years.

II. And whereas divers frauds have been practised by making and publishing papers with certain words and characters so nearly resembling the notes of the governor and company of the Bank of *England*, as to appear, to ignorant and unwary persons, to be the notes of the said governor and company; and it is necessary for the security of the public, that such practices, as applied to the notes of the said governor and company of the description aforesaid, should be prevented; Be it therefore further enacted, That if any person or persons, from and after the passing of this Act, shall engrave, cut, etch, scrape, or by any other art, means, or device make, or shall cause or procure to be engraved, cut, etched, scraped, or by any other art, means, or contrivance made, or shall knowingly aid or assist in the engraving, cutting, etching, scraping, or by any other art, means, or contrivance making, in or upon any plate of copper, brass, steel, iron, pewter, or of any other metal or mixture of metals, or upon wood, or any other materials, or upon any plate whatsoever, any line work, as or for the ground work of a promissory note or bill of exchange, the impression taken from which line work shall be intended to resemble the ground work of a bank note of the said governor and company of the description aforesaid, or any device, the impression taken from which shall contain the words "Bank of *England*," in white letters upon a black, sable, or dark ground, either with or without white or other lines therein, or shall contain in any part thereof the numerical sum or amount of any promissory note or bill of exchange in black and red register work, or shall show the reversed contents of a promissory note or bill of exchange, or of any part of a promissory note or bill of exchange, or shall contain any word or words, figure or figures, character or characters, pattern or patterns, which shall be intended to resemble the whole or any part of the matter or ornaments of any bank note of the description aforesaid, or shall contain any word, number, figure, or character, in white on a black, sable, or dark ground, either with or without white or other lines therein, which shall be intended to resemble the numerical sum or amount in the margin, or any other part of any bank note of the said governor and company, without an authority in writing for that purpose from the said governor and company, to be produced and proved by the party accused; or if any person or persons shall, from and after the passing of this Act, (without such authority as aforesaid,) use any such plate, wood, or other material so engraved, cut, etched, scraped, or by any other art, means, or contrivance made, or shall use any other instrument or contrivance for the making or printing upon any paper or other material, any word or words, figure or figures, character or characters, pattern or patterns, which shall be intended to resemble the whole or any part of the matter or ornaments of any such note of the said governor and company, of the description aforesaid, or any word, figure, or character, in white on a black, sable, or dark ground, either with or without white or other lines therein, which shall be apparently intended to resemble the numerical sum or amount in the margin, or any other part of any bank note of the said governor and company; or if any person or persons shall, from and after the passing of this Act, without such authority as aforesaid, knowingly have in his, her, or their custody or possession, any such plate or instrument, or shall knowingly and wilfully utter, publish, or dispose of, or put away any paper or other material containing any such word or words, figure or figures, character or characters, pattern or patterns, as aforesaid, or shall knowingly or willingly have in his, her, or their custody or possession, any paper or other material containing any such word or words, figure or figures, character or characters, pattern or pat-

Punishment of persons engraving, &c. on any plate any resemblance of the ground work of a bank note of the Bank of England, without the authority of the Bank;

or using such plate;

or having such plate in possession; or uttering any impression from it:

transportation for 14 years.

No. XXVII. 1 Geo. IV. c. 92.

terns as aforesaid (without lawful excuse, the proof whereof shall lie upon the person accused); every person so offending in any of the cases aforesaid, and being convicted thereof according to law, shall be adjudged a felon, and shall be transported for the term of fourteen years.

Bank may cause an impression to be made upon the notes by machinery, in lieu of signatures.

III. And whereas it is expedient, That the name or names of the person or persons intrusted and authorized by the said governor and company to sign bank notes on behalf of the said governor and company, should be impressed by machinery upon bank notes of the description aforesaid, in such form as may from time to time be adopted by the said governor and company, instead of being subscribed in the hand-writing of such person or persons respectively; And whereas doubts may arise respecting the validity of such notes; Be it therefore declared and enacted, That all bank notes of the said governor and company of the description aforesaid, whereon the name or names of any person or persons intrusted or authorized to sign such notes on behalf of the said governor and company, shall or may be impressed by machinery provided for that purpose by the said governor and company, and with the authority of the said governor and company, shall be and be taken to be good and valid to all intents and purposes, as if such notes had been subscribed in the proper hand-writing of the person or persons intrusted or authorized by the said governor and company to sign the same respectively, and shall be deemed and taken to be bank notes within the meaning of all laws and statutes whatsoever, and shall and may be described as bank notes in all indictments and other criminal and civil proceedings whatsoever; any law, statute, or usage to the contrary notwithstanding.

PART V.—CLASS XIII.

PIRACY, AND OFFENCES COMMITTED ON THE HIGH SEAS.

[No. I.] 15 Richard II. c. 3.—In what Places the Admiral's Jurisdiction doth lie.

No. I. 15 Rich. II. c. 3.

"ITEM, at the great and grievous complaint of all the commons made to "our Lord the King in this present Parliament, for that the admirals and "their deputies do encroach to them divers jurisdictions, franchises, and "many other profits pertaining to our Lord the King, and to other lords, "cities and boroughs, other than they were wont or ought to have of right, "to the great oppression and impoverishment of all the commons of the "land, and hindrance and loss of the King's profits, and of many other "lords, cities, and boroughs through the realm;" 'It is declared, ordained, 'and established, That of all manner of contracts, pleas, and quarrels, and 'all other things rising within the bodies of the counties, as well by land as 'by water, and also of wreck of the sea, the Admiral's Court shall have no 'manner of cognizance, power, nor jurisdiction; but all such manner of 'contracts, pleas, and quarrels, and all other things rising within the bo-'dies of counties, as well by land as by water, as afore, and also wreck of 'the sea, shall be tried, determined, discussed, and remedied by the laws of 'the land, and not before nor by the admiral, nor his lieutenant in any 'wise. Nevertheless, of the death of a man, and of a maihem done in 'great ships, being and hovering in the main stream of great rivers, only be-

No. I.
15 Rich. II. c. 3.

'neath the *bridges* of the same rivers nigh to the sea, and in none other 'places of the same rivers, the admiral shall have cognizance, and also to 'arrest ships in the great flotes for the great voyages of the King and of 'the realm; saving always to the King all manner of forfeitures and pro- 'fits thereof coming: And he shall have also jurisdiction upon the said 'flotes, during the said voyages only, saving always to the lords, cities, and 'boroughs their liberties and franchises.'

[No. II.] 27 Henry VIII. c. 4.—For Pirates and Robbers [on the Seas.

No. II.
27 H. VIII. c. 4.

'WHERE pirates, thieves, robbers and murtherers upon the sea, many 'times escape unpunished, because the trial of their offences hath here- 'tofore been ordered before the admiral, or his lieutenant or commissary, 'after the course of the civil laws, the nature whereof is, that before any 'judgment of death can be given against the offenders, either they must 'plainly confess their offence (which they will never do without torture or 'pains), or else their offences be so plainly and directly proved by witnesses 'indifferent, such as saw their offences committed, which cannot be gotten 'but by chance at few times; because such offenders commit their offences 'upon the sea, and at many times murther and kill such persons being in 'the ship or boat where they commit their offences, which should bear wit- 'ness against them in that behalf, and also such as should bear witness be 'commonly mariners and shipmen, which for the most part cannot be got- 'ten ne had always ready to testify such offences, because of their often 'voyages and passages in the seas, without long tarrying or protraction of 'time, and great costs and charges, as well of the King's Highness, as of 'such as would pursue such offenders;' For reformation whereof, be it enacted by authority of this present Parliament, That all such offences done in or upon the sea, or in any other haven, river or creek where the admiral or admirals pretend to have jurisdiction, shall be inquired, tried, heard and determined in such shires and places in this realm as shall be limited by the King's commission to be directed for the same, in like form and condition as if such offences had been done on the land, and that such commissions shall be had under the King's great seal, directed to the lord admiral or admirals, or to his or their lieutenant, deputy or deputies, and to three or four such other substantial persons as shall be named by the lord chancellor for the time being, as often as need shall require, to hear and determine such offences after the common course of the laws of the land used for felonies done and committed within this realm.

The inconveniences of the trial of piracy after the course of the civil law.

Before what persons offences committed upon the sea shall be heard and determined.

II. And be it enacted by the authority aforesaid, That such persons to whom such commissions shall be directed, or three of them at the least, shall have full power and authority to inquire of such offences, by the oaths of twelve good and lawful men inhabited in the shire limited in their commission, in such like manner and form as if such offences had been committed upon the land within the same shire; and that every indictment found and presented before such commissioners, of any felonies, robberies, murthers or manslaughters done upon the seas, or in or upon any other haven, river or creek, shall be good and effectual in the law; and if any person or persons happen to be indicted for any such offence done or hereafter to be done upon the seas, or in any other places above limited, that then such order, process, judgment and execution shall be used, had, done and made, to and against every such person and persons so being indicted, as against felons and murtherers for murther or felony done upon the land, as by the laws of this realm is accustomed; and that the trial of such offence, if it be denied by the offenders, shall be had by twelve men inhabited in the shire limited within such commission, which shall be directed as is aforesaid, and no challenge to be had for the hundred, and such as shall be convict of any such offence, by verdict, confession or process, by authority of any such commission, shall have and suffer such pains of death, losses of lands, goods and chattels, as if they had been convict of any felonies or murthers done upon the lands.

By what jurors the same offences shall be inquired of.

The trial, judgment and forfeiture of offenders in piracy.

No. II. 27 H. VIII. c. 4.

III. And be it enacted by the authority aforesaid, That for robberies, felonies, and murthers, done upon the seas, or in any other places above rehearsed, the offenders shall not be admitted to have the benefit of their clergy, but be utterly excluded thereof, and also of the privilege of any sanctuary.

Clergy shall not be allowed to pirates.

IV. Provided alway, That this Act extend not to be prejudicial or hurtful to any person or persons for taking of any victuals, cables, ropes, anchors, or sails, which any such person or persons, compelled by necessity, taketh of or in any other ship, which may conveniently spare the same, so that the same person or persons pay out of hand for the same victual, cables, ropes, anchors, or sails, money or money-worth, to the value of the thing so taken, or deliver for the same a sufficient bill obligatory to be paid in form following; that is to say, if the taking of the same things be on this side the Straits of *Marrock*, then to be paid within four months; and if it be beyond the said Straits of *Marrock*, then to be paid within twelve months next ensuing the making of such bills; and that the makers of such bills well and truly pay the same debt at the day to be limited within the said bills.

Things taken upon the sea by necessity.

Commissions directed into the five ports.

V. Provided alway, That whensoever any such commission for the punishment of the offences aforesaid shall be directed or sent to any place within the jurisdiction of the five ports, that then every such commission shall be directed unto the lord warden of the same ports for the time being, or to his deputy, and unto three or four such other person or persons as the lord chancellor for the time being shall name and appoint; any thing in this present Act to the contrary thereof in any wise notwithstanding.

VI. Provided also, That whensoever any commission shall be directed into the five ports for the inquisition and trial of any of the offences expressed in this Act, that every such inquisition and trial to be had by virtue of such commission, shall be made and had by the inhabitants in the said five ports, or the members of the same; any thing in this Act to the contrary thereof notwithstanding.

[No. III.] 28 Henry VIII. c. 15.—For Pirates.

No. III. 28 H. VIII. c. 15.

'WHERE traytors, pirates, thieves, robbers, murtherers, and confederates upon the sea, many times escaped unpunished, because the 'trial of their offences hath heretofore been ordered, judged, and deter'mined before the admiral, or his lieutenant or commissary, after the course 'of the civil laws, the nature whereof is, that before any judgment of 'death can be given against the offenders, either they must plainly confess 'their offences (which they will never do without torture or pains) or else 'their offences be so plainly and directly proved by witness indifferent, such 'as saw their offences committed, which cannot be gotten but by chance 'at few times, because such offenders commit their offences upon the sea, 'and at many times murther and kill such persons being in the ship or 'boat where they commit their offences, which should witness against them 'in that behalf; and also such as should bear witness be commonly ma'riners and shipmen, which, because of their often voyages and passages in 'the seas, depart without long tarrying and protraction of time, to the 'great costs and charges as well of the King's Highness, as such as would 'pursue such offenders:' For reformation whereof, Be it enacted by the authority of this present Parliament, That all treasons, felonies, robberies, murthers, and confederacies hereafter to be committed in or upon the sea, ar in any other haven (1), river, creek, or place where the admiral or admirals have or pretend to have power, authority or jurisdiction, shall be inquired, tried, heard, determined, and judged, in such shires and places in the realm, as shall be limited by the King's commission or commissions to be direeted for the same, in like form and condition, as if any such offence or offences had been committed or done in or upon the land; and such

Trial of offences committed upon the sea, or within the admiral's jurisdiction, by the King's commission.

(1) The courts of common law have a concurrent jurisdiction over offences committed in Milford Haven, and in other havens, creeks, and rivers of this realm; R. v. Bruce, Leach, Case 353, 4th. Ed.

No. III. 28 H. VIII. c. 15.

commissions shall be had under the King's great seal, directed to the admiral or admirals, or to his or their lieutenant, deputy and deputies, and to three or four such other substantial persons, as shall be named or appointed by the lord chancellor of *England* for the time being, from time to time, and as oft as need shall require, to hear and determine such offences after the common course of the laws of this realm, used for treasons, felonies, murthers, robberies, and confederacies of the same, done and committed upon the land within this realm.

The commissioners' authority.

II. And be it enacted by the authority aforesaid, That such persons to whom such commission or commissions shall be directed, or four of them at the least, shall have full power and authority to enquire of such offences, and of every of them, by the oaths of twelve good and lawful inhabitants in the shire limited in their commission, in such like manner and form, as if such offences had been committed upon the land within the same shire; and that every indictment, found and presented before such commissioners, of any treasons, felonies, robberies, murthers, manslaughters, or such other offences, being committed or done in or upon the seas, or in or upon any other haven, river, or creek, shall be good and effectual in the law; and if any person or persons happen to be indicted for any such offence done or hereafter to be done upon the seas, or in any other place above limited, that then such order, process, judgment, and execution shall be used, had, done, and made, to and against every such person and persons so being indicted, as against traytors, felons, and murtherers, for treason, felony, robbery, murther, or other such offences done upon the land, as by the laws of this realm is accustomed; and that the trial of such offence or offences, if it be denied by the offender or offenders, shall be had by twelve lawful men inhabited in the shire limited within such commission, which shall be directed as is aforesaid, and no challenge or challenges to be had for the hundred; and such as shall be convict of any such offence or offences, by verdict, confession, or process, by authority of any such commission, shall have and suffer such pains of death, losses of lands, goods, and chattels, as if they had been attainted and convicted of any treasons, felonies, robberies, or other the said offences done upon the lands.

The punishment of offenders.

III. And be it enacted by the authority aforesaid, That for treasons, robberies, felonies, murthers, and confederacies done upon the sea or seas, or in any place above rehearsed, the offenders shall not be admitted to have the benefit of his or their clergy, but be utterly excluded thereof and from the same, and also of the privilege of any sanctuary.

Taking of things that may be spared upon necessity, and paying for them.

IV. Provided alway, That this Act extend not to be prejudicial or hurtful to any person or persons for taking any victual, cables, ropes, anchors, or sails, which any such person or persons (compelled by necessity) taketh of or in any ship which may conveniently spare the same, so the same person or persons pay out of hand for the same victual, cables, ropes, anchors, or sails, money or money-worth to the value of the thing so taken, or do deliver for the same a sufficient bill obligatory to be paid in form following: that is to say, If the taking of the same things be on this side the Straits of *Marroke*, then to be paid within four months, and if it be beyond the said Straits of *Marroke*, then to be paid within twelve months next ensuing the making such bills, and that the makers of such bills well and truly pay the same debt at the day to be limited within the said bills.

Commissions directed into any place within the five ports.

V. Provided alway, That whensoever any such commission for the punishment of the offences aforesaid, or of any of them, shall be directed or sent to any place within the jurisdiction of the five ports, that then every such commission shall be directed unto the lord warden of the said ports for the time being, or to his deputy, and unto three or four such other person or persons, as the lord chancellor for the time being shall name and appoint; any thing in this present Act to the contrary notwithstanding.

VI. Provided alway, That whensoever any commission shall be directed unto the five ports for the inquisition and trials of any the offences expressed in this Act, that every such inquisition and trial to be had by virtue of such commission, shall be made and had by the inhabitants in the said five ports, or the members of the same; any thing in this Act to the contrary thereof notwithstanding.

[No. IV.] 11 and 12 William III. c. 7.—An Act for the more effectual Suppression of Piracy.

No. IV.
11 and 12 William III. c. 7.

28 H. 8. c. 15.

'WHEREAS by an Act of Parliament made in the twenty-eighth year of 'the reign of of King *Henry* the Eighth, it is enacted, That treasons, 'felonies, robberies, murders, and confederacies committed on the sea, shall 'be enquired of, tried, and determined according to the common course of 'the laws of this land used for such offences upon the land within this 'realm; whereupon the trial of those offenders before the admiral, or his 'lieutenant, or his commissary, hath been altogether disused: And whereas, 'that since the making of the said Act, and especially of late years, it 'hath been found by experience, that persons committing piracies, rob-'beries, and felonies on the seas, in or near the *East* and *West Indies*, and 'in places very remote, cannot be brought to condign punishment without 'great trouble and charges in sending them into *England* to be tried with-'in the realm as the said statute directs, insomuch that many idle and 'profligate persons have been thereby encouraged to turn pirates, and be-'take themselves to that sort of wicked life, trusting that they shall not, or 'at least cannot easily, be questioned for such their piracies and robberies, 'by reason of the great trouble and expence that will necessarily fall upon 'such as shall attempt to apprehend and prosecute them for the same: And 'whereas the numbers of them are of late very much increased, and their 'insolencies so great, that unless some speedy remedy be provided to sup-'press them, by a strict and more easy way for putting the ancient laws in 'that behalf in execution, the trade and navigation into remote parts will 'very much suffer thereby;' Be it therefore declared and enacted by the 'King's most excellent Majesty, by and with the advice and consent of 'the Lords Spiritual and Temporal, and Commons, in this present Parlia-ment assembled, and by the authority of the same, That all piracies, fe-lonies, and robberies committed in or upon the sea, or in any haven, river, creek, or place, where the admiral or admirals have power, authority, or jurisdiction, may be examined, inquired of, tried, heard, and determined and adjudged, according to the directions of this Act, in any place at sea, or upon the land, in any of his Majesty's islands, plantations, colonies, dominions, forts, or factories, to be appointed for that purpose by the King's commission or commissions under the great seal of *England*, or the seal of the admiralty of *England*, directed to all or any of the admirals, vice-admirals, rear-admirals, judges of vice-admiralties, or commanders of any of his Majesty's ships of war, and also to all or any such person or persons, officer or officers, by name, or for the time being, as his Majesty shall think fit to appoint; which said commissioners shall have full power jointly or severally, by warrant under the hand and seal of them, or any one of them, to commit to safe custody any person or persons, against whom information of piracy, robbery, or felony upon the sea, shall be given upon oath (which oath they or any one of them shall have full power, and are hereby required to administer) and to call and assemble a court of admiralty on ship-board, or upon the land, when and as often as occasion shall require; which court shall consist of seven persons at the least.

How and where piracies, felonies, &c. committed on the sea may be tried.

'By 4 Geo. 1. c. 11. § 7. offenders against this Act may be tried as directed by 28 H. 8. c. 15.'

Admiralty court to consist of seven persons.

II. And if so many of the persons aforesaid cannot conveniently be assembled, Be it further enacted by the authority aforesaid, That any three of the aforesaid persons (whereof the president or chief of some *English* factory, or the governor, lieutenant governor, or member of his Majesty's councils in any of the plantations or colonies aforesaid, or commander of one of his Majesty's ships, is always to be one) shall have full power and authority, by virtue of this Act, to call and assemble any other persons on ship-board, or upon the land, to make up the number of seven.

Persons qualified to sit and vote, &c.

III. Provided, That no persons but such as are known merchants, factors or planters, or such as are captains, lieutenants, or warrant officers in any of his Majesty's ships of war, or captains, masters or mates of some *English* ship, shall be capable of being so called, and sitting and voting in the said Court.

Power of court so called

IV. And be it enacted by the authority aforesaid, That such persons called and assembled as aforesaid, shall have full power and authority, ac-

cording to the course of the admiralty, to issue warrants for bringing any persons accused of piracy or robbery, before them to be tried, heard, and adjudged; and to summon witnesses, and to take informations and examinations of witnesses upon their oath; and to do all things necessary for the hearing and final determination of any case of piracy, robbery, and felony; and to give sentence and judgment of death, and to award execution of the offenders convicted and attainted as aforesaid, according to the civil law, and the methods and rules of the admiralty; and that all and every person and persons so convicted and attainted of piracy or robbery, shall have and suffer such losses of lands, goods and chattels, as if they had been attainted and convicted of any piracies, felonies, and robberies according to the aforementioned statute made in the reign of King *Henry* the Eighth.

in case of trial of pirates, &c.

V. Provided always, and be it further enacted by the authority aforesaid, That so soon as any court shall be assembled as aforesaid, either on ship-board or upon the land, the King's commission shall first be openly read, and the said court then and there shall be solemnly and publickly called and proclaimed; and then the president of the court shall, in the first place, publickly in open court take the following oath, *viz.*

King's commission to be first read.

President to take the following oath.

'I *A. B.* do swear in the presence of Almighty God, That I will truly 'and impartially try and adjudge the prisoner or prisoners which shall be 'brought upon his or their trials before this court, and honestly and duly, 'on my part, put his Majesty's commission for the trying of them in execu-'tion, according to the best of my skill and knowledge: And that I have 'no interest, directly or indirectly, in any ship or goods, for the pirati-'cally taking of which any person stands accused, and is now to be tried:

'*So help me God.*'

VI. And he having taken the oath in manner aforesaid, shall immediately administer the same oath to every person who shall sit, and have and give a voice in the said court upon the trial of such prisoner or prisoners as aforesaid; and immediately thereupon the said prisoner or prisoners shall be formally brought before them; and then the register of the said court shall openly and distinctly read the articles against such prisoner or prisoners, upon which they or any of them is or are to be tried; wherein shall be set forth the particular fact or facts of piracy, robbery, and felony, with the time and place when and where, and in what manner it was committed; and then each prisoner shall be asked, Whether he be guilty of the said piracy and robbery, or felony, or not guilty? Whereupon every such prisoner shall immediately plead thereunto, guilty, or not guilty, or else it shall be taken as confessed, and he shall suffer such pains of death, loss of lands, goods and chattels, and in like manner, as if he or they had been attainted or convicted upon the oath of witnesses, or his own confession; but if any prisoner shall plead not guilty, witnesses shall be produced by the register, and duly sworn and examined openly, *vivâ voce*, in the prisoner's presence; and after a witness hath answered all the questions proposed by the president of the court, and given his evidence, it shall and may be lawful for the prisoner to have the witness cross-examined, by first declaring to the court what questions he would have asked, and thereupon the president of the court shall interrogate the witness accordingly; and every prisoner shall have liberty to bring witnesses for his defence, who shall be sworn, and examined upon oath, as the witnesses were that testified against him; and afterwards the prisoner shall be fairly heard what he can say for himself; all which being done, the prisoner shall be taken away and kept in safe custody, and all other persons except the register, shall withdraw from the said court, and then the court shall consider of the evidence which hath been given, and debate the matters and circumstances of the prisoner's case, and the president of the court shall collect all the votes of the persons who do sit and have voices in the said court, beginning at the junior first, and ending with himself; and according to the plurality of voices, sentence and judgment shall be then given and pronounced publickly in the presence of the prisoner or prisoners, being called in again; and according to such sentence and judgment the

And then to administer the same to the other members.

How prisoners shall be brought before them and tried.

Prisoners pleading not guilty, witnesses shall be examined vivâ voce.

No. IV. 11 and 12 William III. c. 7.

person or persons attainted shall be executed and put to death, at such time, in such manner, and in such place upon the sea, or within the ebbing or flowing thereof, as the president or the major part of the court, by warrant directed to a provost marshal (which the president or said major part shall have power to constitute) shall appoint.

How sentence shall be executed.

Register of the court to be a publick notary.

VII. And be it further enacted by the authority aforesaid, That some person, being a publick notary, shall be register of the court; and in case of his absence, death, or incapacity, or for want of a person so qualified, the president of the court shall and may appoint a register, giving him an oath (which he is hereby impowered to administer) duly, faithfully, and impartially to execute his office; which register shall prepare all warrants and articles, and take care to provide all things requisite for any trial, according to the substantial and essential parts of proceedings in a court of admiralty, in the most summary way; and shall take minutes of the whole proceedings, and enter them duly in a book by him to be kept for that purpose; and shall from time to time, as opportunity offers, transmit the same, with the copies of all articles and judgments given in any such cases, in any court whereof he shall be register, unto the High Court of Admiralty of *England*.

King's subjects, &c. committing piracy on others of the King's subjects by commission from any foreign prince, shall be adjudged pirates, &c. and suffer death.

VIII. And be it further enacted by the authority aforesaid, That if any of his Majesty's natural-born subjects, or denizens of this kingdom, shall commit any piracy, or robbery, or any act of hostility, against others his Majesty's subjects upon the sea, under colour of any commission from any foreign prince or state, or pretence of authority from any person whatsoever, such offender and offenders, and every of them, shall be deemed, adjudged, and taken to be pirates, felons, and robbers; and they and every of them being duly convicted thereof, according to this Act, or the aforesaid statute of King *Henry* the Eighth, shall have and suffer such pains of death, loss of lands, goods and chattels, as pirates, felons, and robbers upon the seas ought to have and suffer.

Commander or mariner who shall betray his trust, or turn pirate, &c.

IX. And be it further enacted, That if any commander or master of any ship, or any seaman or mariner, shall in any place where the admiral hath jurisdiction, betray his trust, and turn pirate, enemy, or rebel, and piratically and feloniously run away with his or their ship or ships; or any barge, boat, ordnance, ammunition, goods, or merchandizes, or yield them up voluntarily to any pirate, or shall bring any seducing messages from any pirate, enemy, or rebel, or consult, combine, or confederate with, or attempt or endeavour to corrupt any commander, master, officer, or mariner to yield up or run away with any ship, goods, or merchandizes, or turn pirate, or go over to pirates, or if any person shall lay violent hands on his commander, whereby to hinder him from fighting in defence of his ship and goods committed to his trust, or that shall confine his master, or make, or endeavour to make a revolt in the ship, shall be adjudged, deemed, and taken to be a pirate, felon, and robber, and being convicted thereof, according to the directions of this Act, shall have and suffer pains of death, loss of lands, goods, and chattels, as pirates, felons, and robbers upon the seas ought to have and suffer.

or persons laying violent hands on his commander, &c. shall be adjudged a pirate and suffer death.

X. 'And whereas several evil-disposed persons, in the plantations and 'elsewhere, have contributed very much towards the increase and encouragement of pirates by setting them forth, and by aiding, abetting, 'receiving, and concealing them and their goods, and there being some 'defects in the laws for bringing such evil-disposed persons to condig 'punishment:' Be it enacted by the authority aforesaid, That all and every person and persons whatsoever, who, after the twenty-ninth day of *September* in the year of our Lord one thousand seven hundred, shall either on the land or upon the seas, knowingly or wittingly set forth any pirate, or aid and assist, or maintain, procure, command, counsel or advise any person or persons whatsoever, to do or commit any piracies or robberies upon the seas, and such person and persons shall thereupon do or commit any such piracy or robbery, then all and every such person or persons whatsoever, so as aforesaid setting forth any pirate, or aiding, assisting, maintaining, procuring, commanding, counselling or advising the same, either on the land or upon the sea, shall be and are hereby declared, and

Persons setting forth, or aiding or assisting any pirate, &c.

shall be deemed and adjudged to be accessary to such piracy and robbery done and committed; and further, That after any piracy or robbery is or shall be committed by any pirate or robber whatsoever, every person and persons, who knowing that such pirate or robber has done or committed such piracy and robbery, shall on the land or upon the sea, receive, entertain or conceal any such pirate or robber, or receive or take into his custody any ship, vessel, goods or chattels, which have been by any such pirate or robber piratically and feloniously taken, shall be and are hereby likewise declared, deemed and adjudged to be accessary to such piracy and robbery; and that after the said nine and twentieth day of *September*, all such accessaries to such piracies and robberies shall and may be enquired of, tried, heard, determined and adjudged after the common course of the laws of this land, according to the said statute made in the twenty-eighth year of King *Henry* the Eighth, as the principals of such piracies and robberies may and ought to be, and no otherwise; and being thereupon attainted, shall suffer such pains of death, losses of lands, goods and chattels, and in like manner, as the principals of such piracies, robberies and felonies ought to suffer, according to the said statute of King *Henry* the Eighth, which is hereby declared to be and continue in full force; any thing in this present Act contained to the contrary notwithstanding.

shall be adjudged accessaries.

The like for concealing pirate, &c.

How accessaries shall be tried.

XI. 'And for asmuch as it will also conduce to the suppression of robberies on the sea, if due encouragement be given, and rewards allowed, 'to such commanders, masters, and other officers, seamen, and mariners, as 'shall either bravely defend their own ships, or take, seize and destroy 'pirates, sea rovers, and enemies:' Be it further enacted by the authority aforesaid, That when any *English* ship shall have been defended against any pirates, enemies, or sea rovers by fight, and brought to her designed port, in which fight any of the officers or seamen shall have been killed or wounded, it shall and may be lawful to and for the judge of his Majesty's High Court of Admiralty, or his surrogate in the port of *London*, or the mayor, bailiff, or chief officer in the several out ports of this kingdom, upon the petition of the master or seamen of such ship, so defended as aforesaid, to call unto him four or more good and substantial merchants, and such as are no adventurers or owners of the ship or goods so defended, and have no manner of interest therein, and by advice with them to raise and levy upon the respective adventurers and owners of the ship and goods so defended, by process out of the said court, such sum or sums of money as himself and the said merchants, by plurality of voices, shall determine and judge reasonable, not exceeding two pounds *per centum* of the freight, and of the ship and goods so defended, according to the first costs of the goods; which sum or sums of money so raised, shall be distributed among the captain, master, officers, and seamen of the said ship, or widows and children of the slain, according to the direction of the judge of the said court, or his surrogate in the port of *London*, or the mayor, bailiff or chief officer in the several out-ports of this kingdom, with the approbation of the merchants aforesaid, who shall proportion the same, according to their best judgment, unto the ship's company as aforesaid, having special regard unto the widows and children of such as shall have been slain in that service, and such as have been wounded or maimed.

Encouragement for commanders and mariners to defend their ships against pirates, &c.

XII. And for the better and more effectual prevention of combinations and confederacies, for the running away with or destroying of any ship, goods or merchandizes: Be it further enacted by the authority aforesaid, That a reward of ten pounds for every ship or vessel of one hundred tons or under, and fifteen pounds for every ship or vessel of a greater burthen, shall be paid by the captain, commander, or master of every ship or vessel, wherein any such combination or confederacy shall be set on foot, for the running away with or destroying any such ship, or the goods and merchandizes therein laden, to such person as shall first make a discovery thereof, upon due proof of such combination or confederacy; the same to be paid at the port where the wages of the seamen of the said ship are or ought to be paid, after such discovery and proof made.

Reward to discoverer of any combination for running away with ship, &c.

and how to be paid.

XIII. Provided also, That this Act shall be in force for seven years,

Act to be in

No. IV.
11 and 12 William III. c. 7.

and to the end of the next session of Parliament after the expiration of the said seven years, and no longer.

XIV. And for the more effectual prosecution and punishment of piracies, felonies and robberies upon the sea, and of all other offences aforementioned; Be it declared and enacted by the authority aforesaid, That the commissioners appointed or to be appointed by the aforementioned statute of King *Henry* the Eighth, or the commissioners for trial of pirates appointed by this Act, shall, from and after the said nine and twentieth day of *September* one thousand seven hundred, have the sole power and authority of trying, hearing, and determining the said crimes and offences, within all or any of the colonies and plantations in *America*, governed by proprietors, or under grants or charters from the crown, and of bringing the offenders to condign punishment; and shall and may issue forth their warrant or warrants for the seizing and apprehending of any pirates, felons, or robbers upon the sea, or their confederates or accessaries, being within any of the said colonies and plantations, in order to their being brought to trial within the same, or any other plantation in *America*, according to this Act, or sent into *England* to be tried there; and that all and every governor and governors, person and persons in authority in the said colonies and plantations governed by proprietors, or under charters as aforesaid, shall assist the commissioners and their subordinate officers in doing their duty, and also in the execution of such warrants and otherwise, and shall deliver up to such commissioner or commissioners, officer or officers, any pirates, felons and robbers upon the sea, and their confederates and accessaries, in order to their being tried or sent into *England* as aforesaid; any letters patents, grants or charters of government, in and about the said plantations, or other usages heretofore had or made to the contrary notwithstanding.

force for seven years.

'Made perpetual by 6 G. 1. c. 19. and enforced by 8 G. 1. c. 24.'

Commissioners, &c. shall have power to try the aforesaid crimes in all the colonies, &c. in America.

Governors of the said colonies, &c. to assist commissioners, &c.

and deliver up pirates, &c.

XV. And be it hereby further declared and enacted, That if any of the governors in the said plantations, or any person or persons in authority there, shall refuse to yield obedience to this Act, such refusal is hereby declared to be a forfeiture of all and every the charters granted for the government or propriety of such plantation.

Penalty on governor, &c. not yielding obedience to this Act.

XVI. Provided always, and be it enacted by the authority aforesaid, That whensoever any commission for the trial and punishment of the offences aforesaid, or any of them, shall be directed or sent to any place within the jurisdiction of the cinque ports, that then every such commission shall be directed unto the lord warden of the cinque ports for the time being, or to his lieutenant, and unto such other persons as the lord high chancellor, or keeper of the great seal of *England* for the time being, or commissioners for the custody of the great seal, shall name and appoint; and likewise that every inquisition and trial, to be had by virtue of such commission so directed and sent to any place in the said cinque ports, shall be made and had by the inhabitants of the said cinque ports, or the members of the same; any thing in this Act to the contrary thereof notwithstanding.

How commissions for trying offences within the jurisdiction of the cinque ports shall be directed, and inquisition made.

XVII. 'And for the prevention of seamen deserting of merchant ships 'abroad in parts beyond the seas, which is the chief occasion of their turning pirates, and of great detriment to trade and navigation in general;' Be it enacted by the authority aforesaid, That all such seamen, officers or sailors, who shall desert the ships or vessels, wherein they are hired to serve for that voyage, shall for such offence forfeit all such wages as shall be then due to him or them.

Seamen deserting merchant ships to lose their wages.

XVIII. And be it further enacted by the authority aforesaid, That in case any master of a merchant ship or vessel shall, after the nine and twentieth day of *September* one thousand and seven hundred, during his being abroad, force any man on shore, or wilfully leave him behind in any of his Majesty's plantations, or elsewhere, or shall refuse to bring home with him again all such of the men which he carried out with him, as are in a condition to return, when he shall be ready to proceed in his homeward-bound voyage, every such master shall, being thereof legally convicted, suffer three months' imprisonment without bail or mainprize.

Penalty on master, &c. forcing seaman on shore, or refusing to bring him home.

[No. V.] 8 George I. c. 24.—An Act for the more effectual suppressing of Piracy.

No. V.
8 George I.
c. 24.

'WHEREAS the number of persons committing piracies, felonies and 'robberies upon the seas, is of late very much increased; and not-'withstanding the laws already made and now in being, many idle and 'profligate persons have turned pirates, and betaken themselves to that 'wicked course of life, whereby the trade and navigation into remote 'parts will greatly suffer, unless some further provision be speedily made 'for bringing such persons, and all others who shall be any ways aiding and 'assisting, or in confederacy with them, to condign punishment;' Be it therefore declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any commander or master of any ship or vessel, or any other person or persons, shall, from and after the twenty-fifth day of *March* which shall be in the year of our Lord one thousand seven hundred and twenty-two, anywise trade with any pirate, by truck, barter, exchange, or in any other manner, or shall furnish any pirate, felon or robber upon the seas, with any ammunition, provision or stores of any kind, or shall fit out any ship or vessel knowingly, and with a design to trade with, or supply or correspond with any pirate, felon or robber upon the seas, or if any person or persons shall any ways consult, combine, confederate or correspond with any pirate, felon or robber on the seas, knowing him to be guilty of any such piracy, felony or robbery, such offender and offenders, and every of them, shall in each and every of the said cases be deemed adjudged and taken to be guilty of piracy, felony and robbery, and he and they shall and may be inquired of, tried, heard and adjudged of and for all or any the matters aforesaid, according to the statute made in the twenty-eighth year of King *Henry* the Eighth for pirates, and the statute made in the eleventh and twelfth years of the reign of his late Majesty King *William* the Third, intituled, *An Act for the more effectually suppressing of Piracy*, which by an Act made in the sixth year of his present Majesty is made perpetual, and he and they, being convicted of all or any of the matters aforesaid, shall suffer such pains of death, loss of lands, goods and chattels, as pirates, felons and robbers upon the seas ought to suffer; and in case any person or persons belonging to any ship or vessel whatsoever, upon meeting any merchant-ship or vessel on the high-seas, or in any port, haven or creek whatsoever, shall forcibly board or enter into such ship or vessel, and though they do not seize and carry off such ship or vessel, shall throw over-board, or destroy any part of the goods or merchandizes belonging to such ship or vessel, the person or persons who shall be guilty thereof, shall in all respects be deemed and punished as pirates as aforesaid.

Commanders of ships or others, trading with pirates, furnishing them with stores, corresponding with them, &c. guilty of piracy, &c. 28 H. 8. c. 15. 11 & 12 W. 3. c. 7. See 18 G. 2. c. 30.

Forcibly boarding any merchant-ship, and throwing any goods overboard, punished as pirates.

II. And be it further enacted by the authority aforesaid, That every ship or vessel which shall be fitted out with a design to trade with, or supply, or correspond with any pirate, and all and every goods and merchandizes put on board the same for any intent or purpose to trade with any pirate, felon or robber on the seas, shall be *ipso facto* forfeited; one moiety thereof to the use of the King's Majesty, his heirs and successors, the other moiety to the person or persons who shall first make discovery, and give information of such intent or design; and such person or persons, who shall first make such discovery, shall and may sue for and recover the said ship or vessel, and all and every the goods and merchandizes on board the same, in the High Court of Admiralty.

Ships and the goods forfeited, half to the crown, half to the discoverers.

III. 'And whereas there are some defects in the laws for bringing persons, 'who are accessaries to piracy and robbery upon the seas, to condign 'punishment, if the principal, who committed such piracy and robbery, is 'not or cannot be apprehended and brought to justice;' Be it therefore enacted by the authority aforesaid, That all and every person and persons whatsoever, who by the said statute made in the eleventh and twelfth years of the reign of King *William* the Third, are declared to be accessary or accessaries to any piracy or robbery therein mentioned, are hereby de-

Accessaries to piracy by 11 & 12 W. 3. c. 7.

No. V.
8 George I. c. 24.

clared, and shall be deemed and taken to be principal pirates, felons and robbers, and shall and may, from and after the said twenty-fifth day of *March* one thousand seven hundred and twenty-two, be inquired of, heard, determined and adjudged, in the same manner as persons guilty of piracy and robbery may and ought to be inquired of, tried, heard, determined and adjudged by the said statute made in the eleventh and twelfth years of his late Majesty King *William*, and being thereupon attainted and convicted, shall suffer such pains of death, loss of lands, goods and chattels, and in like manner as pirates and robbers ought by the said Act to suffer.

shall be deemed principals.

Offenders convicted on this Act, excluded the benefit of clergy.

IV. And be it further enacted by the authority aforesaid, That all and every offender or offenders convicted of any piracy, felony or robbery, by virtue of this Act, shall not be admitted to have the benefit of clergy, but be utterly excluded of and from the same.

Seamen maimed in fight against pirates shall receive the rewards in 22 & 23 Car. 2. c. 11. and be admitted into Greenwich Hospital.

V. And to the end that a further encouragement may be given to all seamen and mariners to fight and defend their ships from pirates, Be it enacted by the authority aforesaid, That in case any seaman or mariner on board any merchant ship or vessel, or any other ship or vessel, shall be maimed in fight against any pirate, every such seaman and mariner, upon due proof of his being maimed in such fight, shall not only have and receive the rewards already appointed by a statute made in the twenty-second and twenty-third years of the reign of King *Charles* the Second, intituled, *An Act to prevent the delivering up of Merchant Ships, and for the Increase of good and serviceable Seamen*, but shall also be admitted into and provided for in *Greenwich Hospital*, preferable to any other seaman or mariner who is disabled from service or getting a livelihood merely by his age.

Masters or seamen not defending themselves against pirates, &c. forfeit their wages and suffer six months' imprisonment.

VI. And be it further enacted by the authority aforesaid, That in case any commander, master, or other officer, or any seaman or mariner of any merchant-ship or vessel which carries guns and arms, shall not when they are attacked by any pirate, or by any ship or vessel on which any such pirate is on board, fight and endeavour to defend themselves, and their said ship or vessel from being taken by the said pirate, or shall utter any words to discourage the other mariners from defending the ship, and by reason thereof the said ship or vessel shall fall into the hands of such pirate; then, and in every such case, every such commander or master, or other officer, and every seaman or mariner, who shall not fight and endeavour to defend and save the said ship or vessel, or who shall utter any such words as aforesaid, shall lose and forfeit all and every part of the wages due to him and them respectively, to the owner and owners of the said ship or vessel, and shall not be permitted to sue for or recover the same, or any part thereof, in any court either of law or equity, and as a farther punishment shall suffer six months' imprisonment.

Masters shall not advance to any seaman above half his wages, while beyond sea.

VII. 'And for prevention of seamen or mariners deserting merchant-'ships or vessels abroad in the plantations, or in any other parts beyond 'the seas, which is the chief occasion of their turning pirates, and of great 'detriment to trade and navigation, and is chiefly occasioned by the owner 'or owners of ships or vessels paying wages to the seamen or mariners 'when abroad:' Be it enacted by the authority aforesaid, That no master or owner of any merchant-ship or vessel shall pay or advance, or cause to be paid or advanced, to any seaman or mariner, during the time he shall be in parts beyond the seas, any money or effects upon account of wages, exceeding one moiety of the wages which shall be due at the time of such payment, until such ship or vessel shall return to *Great Britain* or *Ireland*, or the plantations, or to some other of his Majesty's dominions whereto they belong, and from whence they were first fitted out; and if any such master or owner of such merchant-ship or vessel shall pay or advance, or cause to be paid or advanced, any wages to any seaman or mariner above the said moiety, such master or owner shall forfeit and pay double the money he shall so pay or advance, to be recovered in the High Court of Admiralty, by any person who shall first discover and inform of the same.

Commander of a man of war,

VIII. 'And whereas great interruptions and inconveniences may attend 'his Majesty's service by the captains or commanders, or other officers of

No. V.
8 George I. c. 24.

'his Majesty's ships or vessels of war, their receiving on board such ships 'or vessels, goods and merchandizes, and trading therewith contrary to 'instructions, which strictly forbid their doing the same:' To prevent therefore the said interruptions and inconveniences for the future, Be it enacted by the authority aforesaid, That in case any captain, commander, or other officer of any of his Majesty's ships or vessels of war, whether such ship or vessel shall be employed at home or abroad, shall from and after the twenty-ninth day of *September* in the year of our Lord one thousand seven hundred and twenty-two, receive on board, or permit to be received on board such ship or vessel of war, any goods or merchandizes whatsoever, in order to trade or merchandize with the same either upon his own or any other person's account, except gold, silver or jewels, and except the goods or merchandizes belonging to any merchant-ship or vessel which may be shipwrecked, or in imminent danger of being shipwrecked either on the high seas, or in any port, creek or harbour, within his Majesty's dominions at home or abroad, or elsewhere, in order to the preserving them for their proper owners; and except such goods or merchandizes as they shall at any time be ordered to take or receive on board by order of the lord high admiral of *Great Britain*, or the commissioners for executing that office for the time being, or any three or more of them; every such captain, commander or officer of any of his Majesty's ships or vessels of war so offending, shall, upon his being convicted thereof by a court martial, lose and forfeit the command and office he then shall have in the said ship or vessel of war, and shall be, and he is hereby for ever afterwards rendered uncapable to serve any longer in the same, or in any other place or office in the naval service of his Majesty, his heirs and successors; and such captain, commander, or other officer, offending as aforesaid, shall, as a further punishment for his said offence, lose and forfeit to his Majesty, his heirs and successors, all the wages due to him for his service in the ship or vessel of war whereunto he shall belong, when or at any time after such offence shall be committed.

who shall receive any goods on board, except, &c. shall forfeit his command, be incapacitated, and lose his wages. 'So much of this clause, as directs the punishment to be inflicted by a court martial on any captain or other officer, is repealed by 22 G. 2. c. 33.'

IX. And be it further enacted, That the said captain, commander, or other officer of the said ship or vessel of war, and all and every the owners and proprietors of such goods or merchandizes put on board such ship or vessel of war as aforesaid, shall lose, forfeit and pay the value of all and every such goods and merchandizes so put on board as aforesaid; one moiety of such full value to such person or persons as shall make the first discovery, and give information of or concerning the said offence, the other moiety of such full value to and for the use of *Greenwich Hospital;* all which forfeitures shall and may be sued for and recovered in the High Court of Admiralty.

Such commander and the proprietors of the goods shall forfeit the value.

X. And be it also enacted, that this Act shall extend to all his Majesty's dominions in *Asia*, *Africa*, and *America*, and shall be taken as a publick Act, and shall continue in force for seven years, from the twenty-fifth day of *March* one thousand seven hundred and twenty-two, and from thence, to the end of the then next session of Parliament. [Made perpetual by 2 Geo. II. c. 28. sect. 7.]

To extend to Asia, &c. To be taken as a public Act, and be in force for seven years, &c.

[No. VI.] 18 George II. c. 30.—An Act to amend an Act made in the eleventh Year of the Reign of King *William* the Third, intituled, *An Act for the more effectual Suppression of Piracy.*

No. VI.
18 Geo. II. c. 30.
11 W. 3. c. 7.

'WHEREAS by an Act made in the eleventh year of King *William* the 'Third, intituled, *An Act for the more effectual Suppression of* 'Piracy; It is (amongst other things) enacted, That all piracies, felonies, 'and robberies committed on the sea, or in any haven, river, creek, 'or place where the admiral or admirals have power, authority, or juris-'diction, may be examined, enquired of, tried, and determined and adjudg-'ed, according to the directions of the said Act, in any place at sea, or 'upon the land, in any of his Majesty's islands, plantations, colonies, do-

No. VI. 18 Geo. II. c. 30.

'minions, forts, or factories, to be appointed for that purpose by the King's 'commission, in the manner therein directed: And it is also thereby fur- 'ther enacted, That if any of his Majesty's natural born subjects, or deni- 'zens of this kingdom shall commit any piracy or robbery, or any act of 'hostility, against others of his Majesty's subjects, upon the sea, under 'colour of any commission from any foreign prince or state, or pretence of 'authority from any person whatsoever, such offenders shall be deemed 'pirates, felons, and robbers; and they being duly convicted, according to 'the said Act, or according to an Act of the twenty-eighth year of the reign 28 H. 8. c. 15. 'of King *Henry* the Eighth, therein recited, shall have and suffer such 'pains of death, loss of lands, goods and chattels, as pirates, felons, and 'robbers upon the seas, ought to have and suffer: And whereas, since the 'present wars with *France* and *Spain*, divers of his Majesty's natural-born 'subjects have entered in the service of his Majesty's enemies, on board 'privateers, or other ships, having commissions from the crowns of *France* 'or *Spain*, and committed divers hostilities against his Majesty's subjects 'upon the seas, in the *West Indies*, and other parts: And whereas doubts 'have arisen, whether as such offenders have, by such their adherence to 'the King's enemies, been guilty of high treason, they can be deemed 'guilty of felony, within the intent of the said Act, and, as such, liable to 'be tried by the said Court of Admiralty appointed or to be appointed by 'virtue of the said Act:' Therefore, to put an end to the said doubts, and to prevent the inconveniences that must arise, by the want of speedy justice on such offenders; May it please your most excellent Majesty, that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all persons being natural-born subjects, or denizens of his Majesty, who during the present or any future wars, have committed, or shall commit any hostilities upon the sea, or in any haven, river, creek, or place, where the admiral or admirals have power, authority or jurisdiction, against his Majesty's subjects, by virtue or under colour of any commission from any of his Majesty's enemies, or have been, or shall be any other ways adherent, or giving aid or comfort to his Majesty's enemies upon the sea, or in any haven, river, creek, or place, where the admiral or admirals have power, authority or jurisdiction, may be tried as pirates, felons and robbers in the said Court of Admiralty, on ship-board, or upon the land, in the same manner as persons guilty of piracy, felony and robbery, are by the said Act directed to be tried; and such persons being upon such trial convicted thereof, shall suffer such pains of death, loss of lands, goods and chattels, as any other pirates, felons and robbers ought by virtue of the said recited Act of the eleventh year of King *William* the Third, or any other Act, to suffer.

Subjects or denizens, during any wars, committing hostilities at sea, &c. against his Majesty's subjects, where the admirals have power, or giving aid, &c. to enemies at sea, may be tried as pirates. 11 W. 3. c. 7.

II. Provided, and it is hereby declared and enacted, That any person who shall be tried and acquitted, or convicted according to this Act, for any of the said crimes, shall not be liable to be indicted, prosecuted, or tried again in *Great Britain*, or elsewhere, for the same crime or fact as high treason.

Not to be tried again for the same crime as high treason.

III. Provided, That nothing in this Act contained shall be construed to extend to prevent any persons guilty of any of the said crimes, who shall not be tried according to this Act, from being tried for high treason within this realm, according to the aforesaid Act of the twenty-eighth year of King *Henry* the Eighth.

Criminals not tried by this Act may be tried for high treason, by 28 H. 8. c. 15.

[No. VII.] 39 George III. c. 37.—An Act for Remedying certain Defects in the Law respecting Offences committed upon the High Seas.—[10th *May* 1799.]

No. VII. 39 Geo. III. c. 37.

'WHEREAS by an Act passed in the twenty-eighth year of King *Henry* 'the Eighth, it is enacted, That treasons, felonies, robberies, murthers, 'and confederacies, committed on the high seas, shall be enquired of, tried, 'and determined, in such shires and places in the realm, as shall be limited

No. VII. 39 Geo. III. c. 37.

28 H. 8. c. 15. recited.

All Offences whatever committed on the High Seas shall be liable to the same Punishments as if committed on Shore, and shall be tried and adjudged in the same manner as felonies &c., are directed by the recited Act.

'by the King's commission to be directed for the same, in like form and 'condition as if any such offence or offences had been committed or done 'in or upon the land: And whereas it is expedient to declare that other 'offences committed on the seas may be inquired of tried and determined 'in like manner:' Be it enacted and declared by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all and every offence and offences, which, after the passing of this Act, shall be committed upon the high seas, out of the body of any county of this realm, shall be, and they are hereby declared to be offences of the same nature respectively, and to be liable to the same punishments respectively, as if they had been committed upon the shore; and shall be enquired of, heard, tried, and determined and adjudged, in the same manner as treasons, felonies, murthers, and confederacies, are directed to be by the same Act.

Persons tried for Murther or Manslaughter, and found guilty of Manslaughter only, shall be entitled to the benefit of Clergy, and be subject to the same punishment as if committed on land.

II. And be it further enacted, That when any person or persons shall be tried for the crime of murther or manslaughter committed upon the sea, by virtue of any commission directed under the said Act, and shall be found guilty of manslaughter only, such person or persons shall be entitled to receive the benefit of clergy in like manner, and shall be subject to the same punishment, as if he or they had committed such manslaughter in or upon the land.

[No. VIII.] 46 George III. c. 54.—An Act for the more speedy Trial of Offences committed in distant Parts upon the Sea.—[23d *May* 1806.]

No. VIII. 46 Geo. III. c. 54.

28 H. 8. c. 15. 11 & 12 Gul. 3. c. 7.

'WHEREAS by an Act of Parliament, made in the twenty-eighth 'year of the reign of King *Henry* the Eighth, it is enacted, That 'all treasons, felonies, robberies, murthers, and confederacies, committed 'on the sea, shall be enquired of tried and determined according to the 'common course of the laws of this land used for such offences upon the 'land within this realm: And whereas by another Act of Parliament 'made in the eleventh year of the reign of King *William* the Third, intituled "*An Act for the more effectual Suppression of Piracy*," it is enacted, 'that all piracies felonies and robberies committed on the sea, or in any 'haven, river, creek, or place where the admiral or admirals have power 'authority or jurisdiction may be examined, enquired of, tried, heard, and 'determined, and adjudged, in any place at sea or upon the land in any 'of his Majesty's islands, plantations, colonies, dominions, forts, or factories, to be appointed for that purpose by the King's commission, in the 'manner therein directed, and according to the rules of the civil law: 'And whereas treasons murthers and divers other felonies and misdemeanours not mentioned in the said statute of the eleventh year of the 'reign of King *William* the Third, cannot be tried by virtue of any commission directed under that Act, but the persons committing or charged 'with having committed the same upon the seas in or near the *East* 'or *West Indies* and in places very remote, can only be brought to trial 'by sending them to *England* to be tried within this realm, under the 'commission directed by the said statute of the twenty-eighth year of the 'reign of King *Henry* the Eighth; whereby not only great charges and 'expences are incurred but offenders do oftentimes escape unpunished by 'reason of the delay and difficulties attending such prosecutions: For 'remedy whereof, and in order that one uniform course of trial may be 'had for all treasons, piracies, felonies, robberies, murthers, conspiracies, 'and other offences committed upon the seas:' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament

No. VIII. 46 Geo. III. c. 54.

All Offences whatever, committed on the Sea, &c. may be tried in any of his Majesty's Islands, &c. by virtue of the King's Commission under the Great Seal; and Commissioners shall have powers as under 28 H. 8. c. 15.

assembled, and by the authority of the same, That all treasons, piracies, felonies, robberies, murders, conspiracies, and other offences of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place, where the admiral or admirals have power authority or jurisdiction, may be enquired of, tried, heard, determined, and adjudged, according to the common course of the laws of this realm used for offences committed upon the land within this realm, and not otherwise, in any of his Majesty's islands, plantations, colonies, dominions, forts, or factories, under and by virtue of the King's commission or commissions under the great seal of *Great Britain*, to be directed to any such four or more discreet persons as the lord chancellor of *Great Britain*, lord keeper or commissioners for the custody of the great seal of *Great Britain* for the time being, shall from time to time think fit to appoint; and that the said commissioners so to be appointed or any three of them shall have such and the like powers and authorities for the trial of all such murders, treasons, piracies, felonies, robberies, conspiracies, and other offences, within any such island, plantation, colony, dominion, fort, or factory, as any commissioners appointed or to be appointed according to the directions of the said statute of the twenty-eighth year of the reign of King *Henry* the Eighth, by any law or laws now in force, have or would have for the trial of the said offences within this realm; and that all persons convicted of any of the said offences, so to be tried by virtue of any commission to be made according to the directions of this Act, shall be subject and liable to and shall suffer all such and the same pains penalties and forfeitures as by any law or laws now in force, persons convicted of the same respectively would be subject and liable to in case the same were respectively enquired of, tried, heard, determined, and adjudged within this realm, by virtue of any commission made according to the directions of the said statute of the twenty-eighth year of the reign of King *Henry* the Eighth; any law statute or usage to the contrary notwithstanding.

[No. IX.] 6 George IV. c. 59.—An Act for encouraging the Capture or Destruction of piratical Ships and Vessels.—[22d *June* 1825.]

No. IX. 6 Geo. IV. c. 49.

There shall be paid by the Treasurer of the Navy, on Bills made forth by Commissioners, 20*l.* for every piratical Person secured or killed during the Attack on any piratical Vessel, and 5*l.* for every Man not taken or killed.

WHEREAS it is expedient to give encouragement to the commanders officers, and crews of his Majesty's ships of war and hired armed ships to attack and destroy any ships vessels or boats, manned by pirates or persons engaged in acts of piracy: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act there shall be paid by the treasurer of his Majesty's navy, upon bills to be made forth by the commissioners of the navy, to be paid according to the course thereof, without fee or reward, unto the officers, seamen, marines, soldiers and others, who shall have been actually on board any of his Majesty's ships or vessels of war, or hired armed ships, at the actual taking, sinking, burning, or otherwise destroying of any ship vessel or boat, manned by pirates or persons engaged in acts of piracy, since the first day of *January* one thousand eight hundred and twenty, the sum of twenty pounds, for each and every such piratical person, either taken and secured or killed during the attack on such piratical vessel, and the sum of five pounds for each and every other man of the crew not taken or killed who shall have been alive on board such pirate vessel at the beginning of the attack thereof; the numbers of such piratical men respectively to be proved by the ship's papers taken on board such piratical ship vessel or boat verified by the oaths of two or more of the persons who shall have found and taken possession of such papers, or by such other evidence as under the circumstances of the case shall, by the judge of the High Court of Admiralty, or by the judge of any other

court authorized to take cognizance of such matter, be deemed sufficient proof thereof.

II. And for the more speedy distribution of such reward payable in respect of pirates or pirate vessels, taken or destroyed in distant parts; be it further enacted, That when and so soon as the amount of the bounty so to be paid, and the numbers of men in respect of whom it shall be payable, shall have been ascertained in manner aforesaid, it shall and may be lawful for the commissioner of the navy resident at any of his Majesty's dock yards abroad, or in the absence of a commissioner of the navy, for the naval officer and storekeeper, or if there shall be no such commissioner or naval officer, then for the commander in chief or senior officer of his Majesty's ships and vessels at the port or place into which the piratical ship vessel or boat shall be taken to be proceeded against, or in case of the destruction of the vessel, the place into which the piratical persons seized shall be carried, to draw upon the commissioners of the navy a bill or bills at thirty days' sight for the amount of such bounty, which bill or bills shall, upon the said commissioners being satisfied of the correctness and amount thereof by the production to them of the proof herein-before required, be by them assigned for payment on the treasurer of the navy, and when paid be charged as an imprest on the person so drawing the same; and that all bills so to be made out by the commissioners of the navy, or to be drawn upon them as aforesaid, shall be made payable to such person or persons as shall be authorized and appointed agents for the appraisement and sales of such piratical ships or boats in respect of which such bounty shall be payable, or for the receipt of such bounty only, in case such piratical ships vessels or boats shall have been sunk burnt or destroyed, in like manner as by an Act made in the forty-fifth year of the reign of his late Majesty King *George* the Third, intituled "An Act for the "Encouragement of Seamen, and for the better and more effectually "manning His Majesty's Navy during the present War," was directed with respect to the appointment of agents for the appraisement and sale of prizes taken from the enemy: and that the same bounty shall be paid distributed and divided by such authorized and appointed agent or agents, to and amongst such persons, and in such manner form and proportion as his Majesty, his heirs or successors, by any order or orders in council for that purpose, shall think fit to declare and direct.

As soon as the Amount of the Bounty shall be ascertained, Bills shall be drawn on the Commissioners of the Navy in manner herein mentioned.

45 G. 3. c. 72.

III. And be it further enacted, That if any ship, vessel, boat, goods, merchandize, or other property found and taken in the possession of pirates, shall be duly proved in and adjudged by Court of Admiralty or other court having competent jurisdiction therein to have belonged to and to have been taken from any of his Majesty's subjects, then such ship, vessel, boat, goods, merchandize, and other property, and every part thereof so proved, shall by the decree of the said court be adjudged to be restored, and shall be accordingly restored to the former owner or owners, proprietor or proprietors thereof respectively, he or they paying for or in lieu of salvage a sum of money equal to one-eighth part of the true value of such ship, vessel, boat, goods, merchandize, and other property respectively; which money shall be paid to and divided and distributed amongst such persons, and in such manner form and proportion, as shall by any proclamation or order of his Majesty in council be directed for the distribution of the produce of any ship, vessel, boat, goods or other property of pirates.

Vessels, &c. found in Possession of Pirates to be restored to the Owners, on paying in lieu of Salvage One-eighth of the Value.

IV. And be it further enacted, That no person or persons who shall desert from any of his Majesty's ships or hired armed vessels, or otherwise from his Majesty's service, shall be entitled to receive any proportion of bounty money salvage or other monies payable by virtue of this Act; but that the shares of all such persons, as well as all other shares which shall not be legally demanded within the times prescribed by the said Act of the forty-fifth year of his late Majesty's reign for the demand of prize money, shall be paid over to the treasurer of the royal hospital at *Greenwich*, within such times, in such manner, and to and for such uses and

No Person deserting from His Majesty's Service to be entitled to receive any Proportion of Bounty, &c.

No. IX. 6 Geo. IV. c. 49.

purposes, and subject to such provisions regulations and exceptions, as in the said Act is mentioned with respect to prize money.

Agents appointed for Sale of Ships, &c., to register their Letters of Attorney.

V. And be it further enacted, That all and every person and persons who shall be so nominated and appointed agent or agents as aforesaid, for the appraisement and sale of any piratical ships vessels or boats taken by any of his Majesty's ships or vessels or hired armed ships, or for the distribution of the bounty money by this Act given, shall exhibit and cause to be registered their letter or letters of attorney in the respective courts wherein the proceedings touching the vessels so taken, or touching such bounty or salvage, shall be had; and all such agents shall be subject to such forfeitures and disqualifications for not registering the same as in and by the said Act of the forty-fifth of his late Majesty's reign are enacted and provided.

PART V.—CLASS XIV.

FELONY RELATING TO THE REVENUE.

[No. I.] 52 George III. c. 143.—An Act for amending and reducing into one Act, the Provisions contained in any Laws now in force imposing the Penalty of Death for any Act done in Breach of or in Resistance to any Part of the Laws for collecting his Majesty's Revenue in *Great Britain*.—[23d *July* 1812.]

No. I. 52 Geo. III. c. 143.

'WHEREAS it is expedient, that the provisions contained in any laws 'now in force, for collecting his Majesty's revenue in *Great Britain*, 'whereby the penalty of death is imposed for any act done in breach of or 'in resistance to the said laws, or any of them, should be amended and re-'duced into one Act;' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in all cases where any act to be done or committed after the passing of this Act, in breach of or in resistance to any part of the laws for collecting his Majesty's revenue in *Great Britain*, would by the laws

Offences against Revenue Laws.

No. I.
52 Geo. III.
c. 143.

now in force subject the offender to suffer death, as guilty of felony, without benefit of clergy, by virtue of the said laws, or any of them, such act so to be done or committed, shall be deemed and taken to be felony with benefit of clergy, and punishable only as such, unless the same shall also be declared to be felony without benefit of clergy by this Act.

Offences of persons employed by the Post-office.

II. And be it declared and enacted by the authority aforesaid, That if any deputy, clerk, agent, letter carrier, post boy, or rider, or any other officer or person whatsoever employed by or under the Post-office of *Great Britain*, in receiving, stamping, sorting (1), charging, carrying, conveying, or delivering letters or packets, or in any other (2) business relating to the said office, shall, after the passing of this Act, secrete, embezzle, or destroy any letter or packet, or bag or mail of letters with which he or she shall have been entrusted in consequence of such employment, or which shall in any other manner have come to his or her hands or possession, whilst so employed, containing (3) the whole or any part or parts of any Bank note, Bank post bill, bill of exchange, Exchequer bill, *South Sea* or *East India* bond, dividend warrant, either of the Bank, *South Sea*, *East India*, or any other company, society, or corporation, navy or victualling or transport bill, ordnance debenture, seaman's ticket, state lottery ticket or certificate, Bank receipt for payment on any loan, note of assignment of stock in the funds, letter of attorney for receiving annuities or dividends, or for selling stock in the funds, or belonging to any company, society, or corporation, *American* provincial bill of credit, goldsmiths or bankers letter of credit, or note for or relating to the payment of money, or other bond or warrant, draft, bill or promissory note (4) whatsoever for the payment of money; or shall steal and take out of any letter or packet with which he or she shall have been so entrusted, or which shall have so come to his or her hands or possession, the whole or any part or parts of any such Bank note, Bank post bill, bill of exchange, Exchequer bill, *South Sea* or *East India* bond, dividend warrant, either of the Bank, *South Sea*, *East India*, or any other company, society, or corporation, navy or victualling or transport bill, ordnance debenture, seaman's ticket, state lottery ticket or certificate, Bank receipt for payment of any loan, note of assignment of stock in the funds, letter of attorney for receiving annuities or dividends, or for selling stock in the funds, or belonging to any company, society, or corporation, *American* provincial bill of credit, goldsmiths or bankers letter of credit or note for or relating to the payment of money, or other bond or warrant, draft, bill, or promissory note whatsoever for the payment of money; every person so offending, being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy.

Death.

Offences against post office.

III. And be it further declared and enacted by the authority aforesaid, That if any person shall, after the passing of this Act, steal and take from any carriage, or from the possession of any person employed to convey let-

(1) (2) In Shaw's case, Leach, ca. 45, 2 E. P. C. 580, a person charged on statutes 5 G. III. c. 25. 7 Geo. III. c. 50. as employed in sorting and charging, was acquitted on that count, because he was a sorter only, and it was ruled that he could not be convicted upon another count charging him as a person employed; but the judges were inclined to think, that he might have been convicted on the first count, by a special finding that he was a sorter only; of the correctness of which opinion I apprehend there can be very little doubt, as it is a general principle, that if the case proved comes within the description of that charged, it is sufficient, although it does not support the whole of such charge.

(3) It was held that a letter carrier secreting the two halves of a Bank note sent on different days, in different letters, might be convicted on a charge of secreting two letters containing the Bank note; Moore's case, Leach, ca. 257. Stealing a letter containing money, held not within the statutes respecting the Post-office; but the prisoner may be indicted for a common larceny; Skitt's case, E. P. C. ch. 16. § 22. A letter carrier obtaining possession of the letters in the Post-office before stamped, with a view to embezzle the postage, is not guilty of stealing such letters; Howitt's case, E. P. C. ch. 16. § 39; and, semble, the case would be the same although the letter contained a Bank note. And see Stoper's case, ibid. § 23, Leach, ca. 46.

(4) The paid promissory notes of a country bank, in their transit from the bankers in London to the country, are within the Act; Ranson's case, Leach, (4th ed.) 1090.

No. I. 52 Geo. III. c. 143.

ters sent by the post of *Great Britain*, or from or out of any post-office (1) or house or place for the receipt or delivery of letters or packets, or bags or mails of letters sent or to be sent by such post, or shall steal and take any letter (2) or packet out of any such bag or mail, every person so offending, and being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy; and such offences shall and may be enquired of, tried, and determined either in the county where the offence shall be committed, or where the party shall or may be apprehended (3).

Death.

Offences of persons assisting others employed by the Post-office.

IV. And be it further declared and enacted by the authority aforesaid That if any person shall, after the passing of this Act, counsel, command, hire, persuade, procure, aid, or abet any such deputy, clerk, agent, letter carrier, post boy, or rider, or any officer or person whatsoever employed by or under the said office, in receiving, stamping, sorting, charging, carrying, conveying, or delivering letters or packets, or in any other business relating to the said office, to commit any of the offences hereinbefore mentioned, or shall, with a fraudulent intention, buy or receive the whole or any part or parts of any such security or instrument as hereinbefore described, which shall have been contained in, and which, at the time of buying or receiving thereof, he or she shall know to have been contained in any such letter or packet so secreted, embezzled, stolen, or taken by any deputy, clerk, agent, letter-carrier, post boy, or rider, or any other officer or person so employed as aforesaid, or which such person so buying or receiving as aforesaid shall at the time of buying or receiving thereof know to have been contained in and stolen and taken out of any letter or packet stolen and taken from or out of any mail or bag of letters sent and conveyed by such post, or from or out of any post-office or house, or place for the receipt or delivery of letters or packets, or bags or mails of letters sent or to be sent by such post; every person so offending, and being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy, and shall and may be tried, convicted, and attainted of such felony, as well before as after the trial or conviction of the principal felon, and whether the said principal felon shall have been apprehended or shall be amenable to justice or not.

Forging against Alienation office.

V. And be it further declared and enacted by the authority aforesaid, That if any person shall, after the passing of this Act, make, forge, or counterfeit, or cause or procure to be made, forged or counterfeited, the mark or hand of the receiver of the prefines at the Alienation office, upon any writ of covenant, whereby such receiver or any other person shall or may be defrauded, or suffer any loss thereby; every person so offending, and being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon without benefit of clergy.

Death.

Forging certificates for redemption or sale of land tax.

VI. And be it further declared and enacted by the authority aforesaid, That if any person shall, after the passing of this Act, forge, counterfeit or alter, or cause or procure to be forged, counterfeited or altered, or knowingly or wilfully act or assist in the forging, counterfeiting or altering any contract, assignment, certificate, receipt or attested copy of any certificate made out or purporting to be made out by any person or persons authorized to make out the same by any Act of Parliament touching the redemption or sale of the land tax, or of any part thereof; or if any person shall wilfully utter any such forged, counterfeited, or altered contract, assignment, certificate, receipt or attested copy of certificate, knowing the same to be forged, counterfeited, or altered, with intent to defraud his Majesty, his

Death.

(1) Obtaining the bags, under pretence of being the guard of the mail, is a stealing from the Post-office; Pearce's case, E. P. C. ch. 16. § 39.

(2) Ruled that the same provision in stat. 7 Geo. III. c. 50. did not extend to a stealing by a person employed in the Post-office; Pooley's third case, Leach, (4th ed.) ca. 322.

(3) Where the prisoner stole the mail bag from the mail coach, in his passage from Bristol to London, and left the mail in Middlesex, it was ruled that he could not be convicted in Middlesex for stealing *from the carriage*, on account of its not appearing that the bag was actually taken there; Thomas's case, E. P. C. ch. 16. § 39.

heirs or successors, or any body or bodies politic or corporate, or other person or persons; every person so offending, and being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon without benefit of clergy.

Forging stamps on paper, &c.

VII. And be it further declared and enacted by the authority aforesaid, That if any person shall, after the passing of this Act, forge or counterfeit, or cause or procure to be forged or counterfeited, any mark, stamp (1), die or plate, which in pursuance of any Act or Acts of Parliament shall have been provided, made or used by or under the direction of the commissioners appointed to manage the duties on stamped vellum, parchment and paper, or by or under the direction of any other person or persons legally authorized in that behalf, for expressing or denoting any duty or duties, or any part thereof, which shall be under the care and management of the said commissioners, or for denoting or testifying the payment of any such duty or duties, or any part thereof, or for denoting any device appointed by the said commissioners for the ace of spades, to be used with any playing cards; or shall forge or counterfeit, or cause or procure to be forged or counterfeited, the impression or any resemblance of the impression, of any such mark, stamp, die or plate as aforesaid, upon any vellum, parchment, paper, card, ivory, gold or silver plate, or other material; or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, paper, card, ivory, gold or silver plate, or other material, with any such forged or counterfeited mark, stamp, die or plate as aforesaid, with intent to defraud his Majesty, his heirs or successors, of any of the duties or any part of the duties under the care and management of the said commissioners; or if any person shall utter or sell, or expose to sale, any vellum, parchment, paper, card, ivory, gold or silver plate, or other material, having thereupon the impression of any such forged or counterfeited mark, stamp, die or plate, or any such forged or counterfeited impression as aforesaid, knowing the same respectively to be forged or counterfeited; or if any person shall privately or secretly use any such mark, stamp, die or plate, which shall have been so provided, made or used by or under such direction as aforesaid, with intent to defraud his Majesty, his heirs or successors, of any of the duties, or any part of the duties under the care and management of the said commissioners; every person so offending, and being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy (2).

Death.

Forging stamps on wrought plate of gold or silver, &c.

VIII. And be it further declared and enacted by the authority aforesaid, That if any person shall, after the passing of this Act, transpose or remove, or cause or procure to be transposed or removed, from one piece of wrought plate of gold or silver to another, or to any vessel or ware of base metal, any impression made with any mark, stamp or die, provided, made or used by or under the direction of the said commissioners of stamps, or by or under the direction of any other person or persons legally authorized in that behalf, for denoting any duty or duties, or the payment of any duty or duties granted to his Majesty on gold or silver plate; or shall stamp or mark, or cause or procure to be stamped or marked, any vessel or ware of base metal with any mark, stamp or die, which shall have been forged or counterfeited in imitation of, or to resemble any mark, stamp or die so provided, made or used as aforesaid; or shall sell, exchange or expose to sale, or export out of *Great Britain*, any wrought plate of gold or silver, or any vessel or ware of base metal, having thereupon the impression of any forged or counterfeited mark, stamp or die, for denoting any such duty or duties, or the payment of any such duty or duties, or any forged or counterfeited impression of any mark, stamp or die so provided, made or used as aforesaid, or any impression of any such mark, stamp or die, which shall have been transposed or removed from any other piece of plate as aforesaid, knowing the same respectively to be forged or counterfeited, or transposed or removed as aforesaid; or shall

(1) See Rex v. Collicot, Leach, (4th ed.) ca. 349.

(2) By 53 Geo. III. c. 108. Offences respecting the stamp duties may be tried where the offence was committed, or the offender apprehended.

No. I.
52 Geo. III. c. 143.

wilfully and without lawful excuse (the proof whereof shall lie on the person accused), have or be possessed of any such forged or counterfeited mark, stamp or die, for denoting any such duty or duties, or the payment thereof; every person so offending, and being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon without benefit of clergy.

Death.
Making frames used in making of paper.

IX. And be it further enacted by the authority aforesaid, That if any person (not being lawfully appointed or authorized so to do) shall make, or cause or procure to be made, or shall knowingly aid or assist in the making, or without being so appointed or authorized as aforesaid, shall knowingly have in his, her, or their custody or possession, without lawful excuse (the proof whereof shall lie on the person accused), any frame, mould or instrument, for the making of paper, with the words 'excise office' visible in the substance of such paper, or shall make or cause or procure to be made, or knowingly aid or sasist in the making any paper, in the substance of which the words 'excise office' shall be visible; or if any person (except as before excepted) shall by any art, mystery, or contrivance, cause or procure the said words 'excise office' to appear visible in the substance of any paper whatever; or if any person (not being so appointed or authorized as aforesaid) shall engrave, cast, cut, or make, or shall cause or procure to be engraven, cast, cut, or made, any mark, stamp, or device, in imitation of or to resemble any mark, stamp, or device made or used by the direction of the commissioners of excise in *England* or *Scotland*, or the major part of them respectively, for the purpose of printing, stamping, or marking of any paper to be used as or for a permit or permits to accompany any exciseable commodity or commodities removing or removed from one part of *Great Britain* to any other part thereof, in pursuance of the directions of any of the several statutes requiring such permit; every person so offending, and being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy.

Death.
Forging debentures for return of money from duties of customs or excise.

X. And be it further declared and enacted by the authority aforesaid, That if any person shall, with intent to defraud his Majesty, falsely make, forge, counterfeit or alter, or cause or procure to be falsely made, forged, counterfeited or altered, or willingly assist in falsely making, forging, counterfeiting or altering any debenture, or any certificate for the payment or return of any money, or any part of any such debenture or certificate, or any signature thereon, in any case in which such debenture or certificate is by any Act or Acts of Parliament relating to the duties of customs or excise required or directed to be given or granted; or shall wilfully, with such intent as aforesaid, utter, publish, or make use of any such debenture or certificate, or part thereof, so being wholly or in part falsely made, forged, counterfeited or altered; every person so offending, and being thereof convicted, shall be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy.

Death.
Assisting with arms in illegal exportation of wool or other goods, or in opposing revenue laws, &c.

XI. And be it further declared and enacted by the authority aforesaid, That if any persons, to the number of three or more, armed with fire arms or other offensive weapons, shall hereafter within *Great Britain*, or within the limits of any port, harbour or creek thereof, or within the *Isle of Man*, or within the limits of any port, harbour or creek thereof, be assembled in order to be aiding and assisting in the illegal exportation of wool or other goods prohibited to be exported; or in the carrying of wool or other such goods in order to such exportation; or in the illegal running, landing, or carrying away prohibited or uncustomed goods, or goods liable to pay any duties which shall not have been paid or secured; or in the illegal relanding of any goods whatsoever, which shall have been shipped or exported upon debenture or certificate, or from any warehouse wherein such wool or other goods shall have been deposited under any Act of Parliament for the securing the home consumption duties thereon; or in rescuing or taking away any such wool or other goods as aforesaid after seizure from any officer or officers of the customs or excise, or other officer or officers authorized to seize the same, or other person or persons employed by him or them, or assisting him or them, or from the place where the same shall have been lodged by him or them; or in rescuing any person who shall have been apprehended for any of the offences made felony by any Act relating to the

revenues of customs or excise of *Great Britain*, or in preventing the apprehending any person who shall have been guilty of any such offence; or in case any persons, to the number of three or more, so armed as aforesaid, shall hereafter within *Great Britain*, or within the limits of any port, harbour or creek thereof, or within the *Isle of Man*, or within the limits of any port, harbour, or creek thereof, be so aiding or assisting; or if any person shall maliciously shoot at or upon any ship, vessel or boat belonging to his Majesty's navy, or in the service of the customs or excise, within the limits of any port, harbour or creek of *Great Britain*, or within the *Isle of Man*, or within the limits of any port, harbour or creek thereof, or in any port of the *British* or *Irish* channels, or on the high seas within one hundred leagues of the coast of *Great Britain* or *Ireland*; or if any person shall, either on shore or on the water, within the limits last aforesaid, maliciously shoot at, maim, or dangerously wound, any officer or officers of his Majesty's army, navy, marines, militia, or volunteers, or any other his Majesty's military or naval forces, or of the customs or excise, or any other person or persons aiding or assisting any such officer or officers, when acting in the due execution of his or their duty under any of the powers, authorities, or provisions of any Act relating to the revenues of customs or excise of *Great Britain*, or of any Act for the prevention of smuggling; every person so offending, and every person aiding, abetting or assisting therein, shall, being thereof convicted, be adjudged guilty of felony, and shall suffer death as a felon, without benefit of clergy; and every such offence which shall be committed within any port, harbour, creek, haven or road-stead, of *Guernsey*, *Jersey*, *Alderney*, *Sark* or *Man* respectively, the same may and shall be enquired of, tried and determined, in the said islands respectively; and every such offence committed elsewhere out of the united kingdom, may and shall be enquired of, tried, and determined in any county of the united kingdom; and every such offence committed within *England*, *Scotland* or *Ireland* respectively, may and shall be enquired of, tried and determined within such part of the said united kingdom in which such offence shall have been respectively committed, but in any county or shire of such part of the said united kingdom, in such manner and form as if the offence had been committed in the county or shire in which the same shall be enquired of, tried and determined.

Death.

Offences in Guernsey, &c. where determined.

XII. And be it further enacted by the authority aforesaid, That if any person shall be charged by information on oath before any justice of the peace, or other person competent to take such information in any part of the united kingdom, with being guilty of so assembling, aiding or assisting, or of so maliciously shooting, maiming or wounding as aforesaid, within the limits hereinbefore respectively specified, in any case wherein any such officer as aforesaid, or any person aiding or assisting any such officer in the execution of his duty as aforesaid, shall have been killed, such information shall be forthwith certified by the justice or other person taking the same under his hand and seal, to one of his Majesty's principal secretaries of state, who shall forthwith lay the same before his Majesty in his privy council; and his Majesty may thereupon, if he shall so think fit, by his order in council, require and command the person so charged with such offence that he do, within the space of sixty days, or such longer time as to his Majesty shall seem fit, after the publication of such order in the *London Gazette*, surrender himself to the lord chief justice, or any other justice of the King's Bench, or to any justice of the peace, or other person competent to take such surrender as in such order shall be specified; and may further order and require such order to be proclaimed by the sheriff of the county where the offence shall have been committed, if committed within any county of the united kingdom, and if not committed within any such county, then by the sheriff of any county near to the place wherein the offence shall have been committed; and the clerks of his Majesty's privy council shall cause such order to be forthwith printed and pub-

Proceedings in cases of shooting or wounding, &c.*

* As to proceedings under this provision, which is taken from 19 Geo. II. c. 34; Foster, 51; 1 Wils. 164.

No. I. 52 Geo. III. c. 143.

lished in the *London Gazette*, and such publication to be repeated once in every week after such first publication, until the expiration of the said sixty days, or such other time as shall be appointed by such order for the surrender of such offender, and shall also cause a copy of such order, attested by the signature of one of the said clerks, to be transmitted to the sheriff of the county specified in such order, who shall, within fourteen days after the receipt of such copy, cause the same to be proclaimed between the hours of ten in the morning and two in the afternoon, in the respective market places, upon the respective market days of two market towns, in the same county, if there shall be two such towns; and if there shall be only one such town, then in such town, and in some other place of general resort within such county, and shall also cause a true copy of such order to be affixed upon some public place in each of such market towns or other place where such proclamation shall be made; and if the person charged with such offence as aforesaid shall surrender himself according to such order, the justice or other person to whom he shall so surrender shall commit him to some gaol or prison within the limits of his jurisdiction, to be there dealt with according to law; but if such person, so charged and proclaimed as aforesaid, shall not so surrender himself within the time limited in such order, or shall after surrender and before trial for such offence escape from justice, such person shall, from the day appointed for such surrender, be adjudged to be a person attainted of felony,

Death.

and shall suffer death as a felon, without benefit of clergy, if the offence shall be charged to have been committed in *England*, or within the limits of any port, harbour, or creek in *England* or *Ireland*, or within one hundred leagues of the coast thereof; and it shall be lawful for the Court of King's Bench, or the justices of Oyer or general gaol delivery, or great sessions for the county or place where such offender shall be, to award execution against such offender, in such manner as if he had been convicted and attainted in the said Court of King's Bench, or before such justices of Oyer and Terminer, or general gaol delivery, or great sessions respectively; and if the offence shall be charged to have been committed in

Scotland.

Scotland, or within any port or harbour, or creek thereof, or within one hundred leagues of the coasts thereof, such person shall in the like case be adjudged, deemed, and taken to be convicted of a capital crime, and shall suffer the pain of death, and confiscation of moveables, as in the case of a person found guilty of a capital crime and under sentence for the same; and it shall be lawful for the Court of Justiciary, or the lords of justiciary in their circuits in *Scotland*, to award execution against such offender, in such manner as if he had been found guilty and condemned in the said courts of justiciary or circuit courts respectively.

PART V.—CLASS XV.

OFFENCES RELATING TO QUARANTINE.

[No. I.] 45 George III. c. 10.—An Act for making further Provision for the effectual Performance of Quarantine.—[12*th March* 1805.]

No. I. 45 Geo. III. c. 10.

[I. Recital of 39 and 40 Geo. 3, c. 80, for erecting a lazaret on Chetney Hill.—Grant for the same.—Treasury shall give directions for completing the lazaret, and appoint officers, &c.]

[II. Floating lazarets may be provided until the lazaret shall be completed.]

[III. Certain duties made payable by owners of vessels performing quarantine.—Duties.—Duties shall be recovered as duties of customs.—Exemptions from duties.]

[IV. Duties may be reduced, and afterwards increased.]

[V. Ships shall not be permitted to clear inwards until the duties are paid.—Tonnage shall be computed as under 26 G. 3. c. 60.]

[VI. Ship owners shall recover duties of the importers.]

[VII. Duties shall be carried to consolidated fund of Great Britain.]

[VIII. Duties shall be applied to expences of the lazaret.]

[IX. Repeal of 39 and 40 G. 3. c. 80. and all other Acts relating to quarantine, except as to arrears of duty, &c.]

What ships, &c. shall be liable to quarantine.

X. AND be it further enacted, That all ships and vessels, as well his Majesty's ships of war as all others, coming from or having touched at any place from whence his Majesty, his heirs or successors, by and with the advice of his or their privy council, shall have adjudged and declared it probable that the plague, or any other infectious disease or distemper, highly dangerous to the health of his Majesty's subjects, may be brought; and all ships, vessels, and boats, receiving any person, goods, wares, and merchandize, packets, packages, baggage, wearing apparel, books, letters, or any other articles whatever, from or out of any ships or vessels so coming from or having touched at such infected place as aforesaid, whether such persons, goods, wares, and merchandize, packets, packages, baggage, wearing apparel, books, letters, or other articles, shall have come or been brought in such ships or vessels, or such persons shall have gone, or articles have been put on board the same, either before or after the arrival of such ships or vessels at any port or place in *Great Britain*, or the islands of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, and whether such ships or vessels were or were not bound to any port or place in *Great Britain* or the islands aforesaid; and all persons, goods, wares and merchandize, packets, packages, baggage, wearing apparel, books, letters, or any other articles whatever, on board of any such ships or vessels so coming from or having touched at such infected place as aforesaid, or on board of any such receiving ships, vessels, or boats as aforesaid, shall be and be considered to be liable to quarantine within the meaning of this Act, and of any order or orders which shall be made by his Majesty, his heirs or successors, by and with the advice of his or their privy council concerning quarantine, and the prevention of infection from the time of the departure of such ships or vessels from such infected place as aforesaid, or from the time when such persons, goods, wares, merchandize, packets, packages, baggage, wearing apparel, books, letters, or other articles, shall have been received on board respectively; and all such ships, vessels, and boats as aforesaid, and all persons (as well pilots as others), goods, wares, and merchandize, and other articles as aforesaid, whether coming or brought in such ships, vessels, or boats, from such infected place as aforesaid, or going, or being put on board the same, either before or after the arrival of such ships, vessels, or boats, at any port or place in *Great Britain*, or the islands aforesaid; and all persons, goods, wares, and merchandize, and other articles as aforesaid, on board any such receiving ship, vessel, or boat as aforesaid, shall, upon their arrival at any such port or place, be obliged to perform quarantine in such place or places, for such time and in such manner as shall from time to time be directed by his Majesty, his heirs or successors, by his or their order or orders in council, notified by proclamation, or published in the *London Gazette*; and that until such ships, vessels and boats, persons, goods, wares, and merchandize, and other articles as aforesaid, shall have respectively performed and shall be duly discharged from such quarantine, no such person, goods, wares, or merchandize, or other articles as aforesaid, or any of them, shall, either before or after the arrival of such ships, vessels, or boats, at any port or place, in *Great Britain*, or the islands aforesaid, come or be brought on shore, or go and be put on board any other ship, vessel, or boat, in order to come or be brought on shore, in any such port or place, although such ships or vessels so coming from such infected place as aforesaid may not be

No. I. 45 Geo. III. c. 10.

bound to any port or place in *Great Britain*, or the islands aforesaid, unless in such manner and in such cases, and by such licence as shall be directed or permitted by such order or orders made by his Majesty, his heirs or successors, in council as aforesaid; and all such ships, vessels, and boats, whether coming from such infected place as aforesaid, or being otherwise liable to quarantine as aforesaid, and all persons (as well pilots as others), goods, wares, and merchandise, and other articles as aforesaid, whether coming or brought in such ships, vessels, or boats, or going or being put on board the same, either before or after the arrival of such ships, vessels, or boats, at any port or place in *Great Britain* or the islands aforesaid, and although such ships, vessels or boats, shall not be bound to any port or place in *Great Britain*, or the islands aforesaid, and all commanders, masters, or other persons having the charge or command of any such ships, vessels, or boats, whether coming from any infected place, or being otherwise liable to quarantine, as aforesaid, shall be subject to all the provisions, rules, regulations, and restrictions contained in this Act, or in any order or orders which shall be made by his Majesty, his heirs and successors, in council, as aforesaid, concerning quarantine and the prevention of infection; and to all the pains, penalties, forfeitures, and punishments, contained in this Act, for any breach or disobedience thereof, or of any order or orders of his Majesty in council, made under the authority thereof.

Any goods or ships specified in any order of council, may be made subject to quarantine.

XI. 'And whereas certain sorts of goods and merchandize are more especially liable to retain infection, and may be brought from places infected into other countries, and from thence imported into *Great Britain*, or the islands aforesaid;' Be it enacted, That all such goods and merchandize as shall be particularly specified for that purpose in any order or orders made by his Majesty, his heirs or successors, in council, concerning quarantine and the prevention of infection as aforesaid, which shall be brought or imported into any port or place in *Great Britain*, or the islands aforesaid, from any foreign country or place, in any ship or vessel whatever, and the ships or vessels in which the same shall be brought, and also all ships and vessels which shall arrive from any port or place whatever under any alarming or suspicious circumstances as to infection, shall be subject and liable to such regulations and restrictions as shall be made by such order or orders of his Majesty, his heirs or successors, in council as aforesaid, respecting the same.

The privy council may make such orders as they shall think necessary upon emergencies, respecting ships or goods;

XII. And be it further enacted, That it shall and may be lawful for the lords and others of his Majesty's privy-council, or any three or more of them, to make such order as they shall see necessary and expedient upon any unforeseen emergency, or in any particular case or cases with respect to any ship or ships, vessel or vessels, arriving and having any infectious disease or distemper on board, or on board of which any infectious disease or distemper may have appeared in the course of the voyage, or arriving under any other alarming or suspicious circumstances as to infection, although such ship or ships, vessel or vessels, shall not have come from any place or places from which his Majesty, his heirs or successors, by and with the advice of his or their privy-council, may have adjudged and declared it probable that the plague, or any such infectious disease or distemper may be brought, and also with respect to the persons, goods, wares, and merchandize, and other articles as aforesaid, on board the same; and in case of any infectious disease or distemper appearing or breaking out in *Great Britain* or the islands aforesaid, to make such orders, and give such directions, in order to cut off all communication between any persons infected with any such disease or distemper and the rest of his Majesty's subjects, as shall appear to the said lords or others of his Majesty's privy council or any three or more of them, to be necessary and expedient for that purpose; and likewise to make such orders as they shall see fit for shortening the time of quarantine to be performed by particular ships or vessels, or particular persons, goods, wares, merchandize or any other articles, or for wholly releasing particular ships or vessels, or particular persons, goods, wares, merchandize, or other articles from quarantine, absolutely or conditionally; and generally to mitigate the strict performance of quarantine in particular cases, as special circumstances shall appear, in their judg-

and in case of infectious disease appearing in Great Britain;

and for mitigating quarantine.

ment to require; and all such orders so made by the lords or others of the privy council, or any three or more of them as aforesaid, shall be as good, valid, and effectual, to all intents and purposes (as well with respect to the commander, master, or other person having the charge of any such ship or vessel, and all other persons on board the same, as with respect to any other persons having any intercourse or communication with them, and to the penalties, forfeitures, and punishments, to which they may respectively become liable), as any order or orders made by his Majesty, his heirs or successors, by and with the advice of his or their privy-council, concerning quarantine, and the prevention of infection as aforesaid, and notified by proclamation or published in the *London Gazette*.

Regulations for vessels in which infection shall appear, within or without the Straits of Gibraltar, previous to the lazaret at Chetney Hill being completed.

XIII. And be it further enacted, That if the plague, or such other infectious disease or distemper as aforesaid, shall appear on board any ship or vessel within the Straits of *Gibraltar*, the commander, master, or other person having charge thereof, shall immediately proceed to some one of the [foreign*] lazarets, and there perform quarantine, until such time as the land lazaret to be erected as aforesaid shall, by his Majesty, his heirs, or successors, by and with the advice of his or their privy council, and by order of the same, notified by proclamation, or published in the *London Gazette*, have been declared to be fit for the due performance of quarantine therein; but if such plague, or other such infectious disease or distemper as aforesaid, shall appear on board any ship or vessel without the Straits of *Gibraltar*, then the commander, master, or other person having the charge or command thereof, shall (unless such land lazaret shall have been so declared to be fit for the due performance of quarantine therein) immediately proceed to the harbour of *Saint Helen's*, *Tean* and *North Withel*, being two of the islands commonly called *The Islands of Scilly*, or to such other place as his Majesty, his heirs or successors, by and with the advice of his or their privy-council, shall from time to time direct and appoint; where being arrived he shall make known his case to some officer of the customs there, who shall immediately acquaint the governor, deputy governor, or other principal magistrate thereof, and also the principal officer of the customs at some port in *England* near thereunto; and the said principal officer of the customs at such near port in *England* shall with all possible speed send intelligence thereof to the commissioners of the customs in the port of *London;* and the said governor, deputy governor, or other principal magistrate shall, in like manner, with all possible speed, send intelligence thereof to the privy-council, to the end that such measures may be taken for the comfort and support of the crew and passengers on board such ship so infected, and such precautions used to prevent the spreading of the infection, as the case shall require; and the said ship or vessel shall there remain until directions shall be given relative thereto by the lords or others of his Majesty's privy council, or any three or more of them; nor shall any of the crew or passengers on board thereof go on shore; but in case the said commander, master, or other person having charge of the said ship or vessel so infected, shall not be able to make the said islands of *Scilly*, or other place so appointed by his Majesty as aforesaid, or shall be forced by stress of weather or otherwise to go up either of the channels, it shall not be lawful for him to enter with such ship or vessel into any other port or place in *Great Britain*, or the islands of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, but he shall remain in some open road till he receives directions relative thereto from the privy council, and he shall use every necessary means in his power to prevent any of the ship's company or passengers from going out of his ship, and to avoid all intercourse with other ships, vessels, or persons; and such ship's company or passengers shall, until such commander, master, or other person shall have received such directions, remain in such ship, and shall avoid all intercourse with other ships, vessels, or persons; and such master, and every other person on board such ship or vessel shall obey such directions as he shall receive from the lords or others of his Majesty's privy council, or any three or more of them as aforesaid; and the said commander, master, or any other person on board such ship or vessel as aforesaid, who shall not act conformably to the provisions and regulations herein

*[So is the *Roll*. Qu. 'floating.' *See* § 2. and 22.]

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directed, or shall act in disobedience to such directions as shall be received on board such ship or vessel from the lords or others of the privy council, or any three or more of them as aforesaid, shall be adjudged guilty of felony, and shall suffer death as in cases of felony, without benefit of clergy.

Masters of ships liable to quarantine shall make signals on meeting other ships at sea, or being within four leagues of the United Kingdom or Guernsey, &c. on penalty of 200*l.*

XIV. And be it further enacted, That every commander, master, or other person having the charge of any ship or vessel liable to the performance of quarantine, shall be and is hereby required at all times when such ship or vessel shall meet with any other ship or vessel at sea, or shall be within four leagues of the coast of *Great Britain* or *Ireland*, or the islands of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, to hoist a signal to denote that his ship or vessel is liable to the performance of quarantine; which signal shall be, in the day time, if the said ship or vessel shall have a clean bill of health, a large yellow flag of six breadths of bunting at the main top-mast head; and if such ship or vessel shall not have a clean bill of health, then a like yellow flag, with a circular mark or ball entirely black in the middle thereof, whose diameter shall be equal to two breadths of bunting; and in the night time the signal shall in both cases be a large signal lanthorn, with a light therein (such as is commonly used on board his Majesty's ships of war), at the same mast-head; and such commander, master, or other person shall keep such signals respectively, as the case shall be, hoisted during such time as the said ship shall continue within sight of such other ship or vessel, or within four leagues of the said coasts or islands, and while so in sight, or within such distance, until such ship or vessel so liable to quarantine as aforesaid, shall have arrived at the port or place where it is to perform quarantine, and until it shall have been legally discharged from the performance thereof; on failure whereof such commander, master, or other person, having charge of such ship or vessel so liable to the performance of quarantine, shall forfeit and pay for every such offence the sum of two hundred pounds.

Penalty of 200*l.* on persons hoisting signals when not liable.

XV. And be it further enacted, That if any commander, master, or other person having the charge or command of any ship or vessel, and knowing that the same is not liable to the performance of quarantine, shall hoist such signals as aforesaid, or either of them, by day or night respectively, such commander, master, or other person as aforesaid, shall forfeit and pay the sum of two hundred pounds.

Masters of vessels on their arrival from foreign parts, shall give to the pilots an account of the places at which they shall have laden and touched. Penalty 200*l.* &c.

XVI. And be it further enacted, That from and after the first day of *June* one thousand eight hundred and six, as to all ships or vessels arriving from any places beyond the *Cape of Good Hope*, or *Cape Horn*, in *South America;* and after the first day of *August* one thousand eight hundred and five, as to all ships or vessels arriving from any parts of *Africa* or *America*, not beyond those capes, and from the *West Indies* and *Mediterranean;* and from and after the first day of *May* one thousand eight hundred and five, as to all ships and vessels arriving from any other places; every commander, master, or other person having the charge of any ship or vessel coming from foreign parts shall give to the pilot who shall go on board such ship or vessel a written paper, containing a true account of the names of the place and country at which such ship or vessel shall have loaded, and also of all the places at which any such ship or vessel shall have touched on the homeward voyage, on pain of forfeiting the sum of two hundred pounds for any neglect or refusal to give such paper, or for any false representation or wilful omission therein; and if by any proclamation or order of his Majesty in council, made after the departure of any such ship or vessel from *Great Britain*, and then in force, ships and vessels coming from any place mentioned in any such paper shall be liable to the performance of quarantine, such pilot shall immediately give notice thereof to the commander or other person aforesaid of such ship or vessel, on pain of forfeiting the sum of fifty pounds for any neglect therein; and such commander or other person shall thereupon hoist a proper signal according to the provisions of this Act, and under the penalties in this Act contained, for any neglect or refusal in respect of hoisting such signals.

Penalty of 100*l.* on pilots bringing ships liable to qua-

XVII. And be it further enacted, That in case any pilot shall bring or conduct, or cause to be brought or conducted, any ship or vessel liable to the performance of quarantine, into any place which is not, or which shall

not be specially appointed for the reception of ships and vessels so liable, after receiving such paper as aforesaid, whereby it shall have been made appear that such ship or vessel was liable to the performance of quarantine, or without requiring and receiving such paper as aforesaid, of and from every such commander, master, or other person having the charge of any ship or vessel coming from foreign parts, unless compelled by stress of weather, adverse winds, or accidents of the sea, such pilots shall for each and every such offence forfeit and pay the sum of one hundred pounds.

rantine, into places not appointed for their reception.

XVIII. And, to the end that it may be the better known whether any ship or vessel be actually infected with the plague, or other infectious disease or distemper as aforesaid, or whether such ship or vessel, or the mariners or passengers coming, or the cargo imported in the same, are liable to any orders touching quarantine: Be it further enacted, That when any country or place shall be known to be, or suspected to be infected with the plague, or other such infectious disease or distemper as aforesaid, or when any order or orders shall be made by his Majesty in council concerning quarantine, and the prevention of infection as aforesaid; then, and in such case, as often as any ship or vessel shall attempt to enter into any port or place in *Great Britain*, or of the isles of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, whether such port shall have been appointed for the performance of quarantine or not, the superintendant of quarantine, or his assistant, if there shall be such superintendant or assistant at such port or place, or if not, the principal officer of his Majesty's customs at such port or place, or such officer of the customs as shall be authorized by the commissioners of the customs, or any four or more of them, to act in that behalf, shall go off to such ship or vessel, and shall, at a convenient distance from such ship or vessel, demand of the commander, master, or other person having charge of such ship or vessel, and such commander, master, or other person having charge of such ship or vessel shall upon such demand give a true answer, in writing or otherwise, and upon oath or not upon oath, according as he shall by such superintendant or his assistant, or other officer of the customs authorized as aforesaid, be required, to all such questions or interrogatories as shall be put to him, by virtue and in pursuance of such regulations and directions as his Majesty, by order in council, shall be pleased to prescribe; and in case such commander, master, or other person having charge of such ship or vessel, shall, upon such demand made as aforesaid, refuse to make a true discovery in any of the particulars concerning which he shall be interrogated in manner aforesaid, or in case he shall not be required to answer such questions or interrogatories upon oath, shall give a false answer to any such question or interrogatory as aforesaid, such commander, master, or other person having charge of such ship or vessel, for every such offence shall forfeit and pay the sum of two hundred pounds.

For better ascertaining whether ships be actually infected, or the persons on board liable to orders touching quarantine, masters shall answer inquiries truly. Penalty 200*l*.

XIX. And be it further enacted, That in case it shall appear upon such examination or otherwise, that such ship or vessel is under such circumstances as shall render it liable to perform quarantine, and that the port or place where it so arrives, or at which it attempts to enter as aforesaid, is not the port or place where it ought so to perform quarantine; in such case it shall and may be lawful to and for the officers of any of his Majesty's ships of war, or of any of his Majesty's forts or garrisons, and all other his Majesty's officers, upon notice thereof given to them or any of them respectively, and to and for any other person or persons whom they shall call to their aid and assistance; and such officers and other persons are hereby required to oblige such ship or vessel to go and repair to such place as hath been or shall be appointed for performance of quarantine, and to use all necessary means for that purpose, either by firing of guns upon such ship or vessel, or by any other kind of necessary force whatsoever; and in case any such ship or vessel shall come from or shall have touched at any place infected by the plague, or such other infectious disease or distemper as aforesaid, or shall have any person on board actually infected with the plague, or such other infectious disease or distemper as aforesaid, and the commander, master, or other person having charge of such ship or vessel, knowing that the place from whence he came, or at which he had touched

Ships subject to quarantine arriving at any port except that at which it ought to be performed, may be forced to repair to the appointed place.

Masters of vessels having touched at infected places, &c. omitting to disclose the same, or to hoist prescrib-

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as aforesaid, was infected with the plague, or such other infectious disease or distemper, or knowing some person on board to be actually infected with the plague, or such other infectious disease or distemper as aforesaid, shall refuse or omit to disclose the same upon such examination as aforesaid, or shall wilfully omit to hoist the signal hereinbefore directed, to denote that his ship or vessel is liable to the performance of quarantine, at the times and on the occasions herein directed with respect to the same, such commander, master, or other person having charge of such ship or vessel, shall be adjudged guilty of felony, and shall suffer death, as in cases of felony, without benefit of clergy.

ed signals, shall be guilty of felony without clergy.

Commanders shall deliver up bills of health, manifests, and log-books, to the superintendant of quarantine. Penalty 100*l.*

XX. And be it further enacted, That every commander, master, or other person having charge of any ship or vessel which shall be ordered to perform quarantine as aforesaid, shall forthwith, after his arrival at the place appointed for the performance of his quarantine, deliver, on demand, to the superintendant of quarantine, or his assistant, or other officer of the customs authorized as aforesaid to act in that behalf, and which superintendant, assistant, or other officer as aforesaid, is hereby required to make such demand, his bill of health and manifest, together with his log book and journal, under pain of forfeiting the sum of one hundred pounds, if he shall wilfully refuse and neglect so to do.

Penalty of 500*l.* on masters, &c. quitting vessels, or permitting persons to quit them, or not conveying ships to the appointed places; and 200*l.* and six months' imprisonment on persons coming in such vessels, or going on board, for quitting them before discharged.

XXI. And be it further enacted, That if any commander, master, or other person having charge of any ship or vessel liable to perform quarantine, and on board of which the plague or other such infectious disease or distemper shall not then have appeared, shall himself quit, or shall knowingly permit or suffer any seaman or passenger coming in such ship or vessel to quit such ship or vessel by going on shore, or by going on board any other ship, boat, or vessel, before such quarantine shall be fully performed, unless in such cases and by such proper licence as shall be directed and granted, and by virtue of such order or orders to be made concerning quarantine, and the prevention of infection as aforesaid; or in case any commander, master, or other person, having charge of such ship or vessel, shall not, within a convenient time after due notice given for that purpose, cause such ship or vessel, and the lading thereof, to be conveyed into the place or places appointed for such ship, vessel, and lading, to perform their quarantine respectively; then, and in every such case, every such commander, master, or other person as aforesaid, for every such offence shall forfeit and pay the sum of five hundred pounds; and if any person coming in any ship or vessel liable to perform quarantine, (or any pilot or other person going on board the same, either before or after the arrival of such ship or vessel at any port or place in *Great Britain*, or the islands aforesaid,) shall, either before or after such arrival, quit such ship or vessel, by going on shore in any port or place in *Great Britain* or the islands aforesaid, or by going on board any other ship, vessel, or boat, with intent to go on shore as aforesaid, before such ship or vessel, so liable to quarantine as aforesaid, shall be regularly discharged from the performance thereof, it shall and may be lawful for all persons whatsoever, by any kind of necessary force, to compel such pilot or other person so quitting such ship or vessel so liable to quarantine, to return on board the same; and every such pilot or other person so quitting such ship or vessel so liable to quarantine, shall for every such offence suffer imprisonment for the space of six months, and shall forfeit and pay the sum of two hundred pounds.

No goods shall be landed from vessels having performed quarantine in a foreign lazaret, without notice to the officer of the customs, nor before directions from the privy council,

XXII. And be it further enacted, That when any ship or vessel which has performed quarantine in any foreign lazaret shall arrive in any of the ports of *Great Britain*, or the isles of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, with a clean bill of health, no goods or merchandize shall be permitted to be landed or unshipped, unloaded or moved, in order to be landed out of such ship or vessel; but the commander, master, or other person having the charge or command of such ship or vessel, shall immediately upon his arrival give notice thereof, and of the foreign port or ports in which such ship or vessel hath performed quarantine, to the principal officer of his Majesty's customs at the port where he shall arrive, or at the port nearest thereto, in order that the same may be forthwith laid before his Majesty's privy council; and if the commander, master, or other person

as aforesaid, or any person whatsoever, shall land, or shall unship, unload or move, in order to land any goods or merchandize out of the said ship or vessel, before an order of his Majesty's privy council shall be made, giving directions therein, or otherwise than shall be directed in the said order, every such person shall, for every such offence, forfeit and pay the sum of two hundred pounds.

on penalty of 200*l.*

XXIII. And whereas disobedience or refractory behaviour in persons under quarantine, or liable to the performance of quarantine, or in other persons who may have had any intercourse or communication with them, may be attended with very great danger to his Majesty's subjects: Be it further enacted, That all persons liable to perform quarantine, and all persons having had any intercourse or communication with them, whether in ships or in a lazaret, or elsewhere, shall be subject, during the said quarantine, or during the time they shall be liable to quarantine, to such orders as they shall receive from the superintendant of quarantine or his assistant, or from the principal officer of the customs, at any port or place where there is no such superintendant or assistant, or from any other officer of the customs authorized as aforesaid to act in that behalf; and the said officers are hereby empowered and required to enforce all necessary obedience to the said orders, and in case of necessity to call in others to their assistance, and all persons so called in are hereby required to assist accordingly; and such officers shall, and they are hereby empowered and required to compel all persons liable to perform quarantine as aforesaid, and persons having had any intercourse or communication with them, to repair to such lazaret, ship, vessel, or place, and to cause all goods, wares, and merchandize, and other articles comprized within any such orders to be made as last aforesaid, to be conveyed to such lazaret, ship, vessel, or place duly appointed in that behalf, in such manner and according to such directions as shall be made by order of his Majesty in council as aforesaid, or of the lords and others of the privy council, or of any three or more of them; and if any person or persons liable to perform quarantine as aforesaid, or any person or persons having had any intercourse or communication with him, her, or them, shall wilfully refuse or neglect to repair forthwith, when required and directed so to do by such officer as aforesaid, to the said lazaret, ship, vessel, or place duly appointed in that behalf, or having been placed in the said lazaret, ship, vessel, or place, shall escape or attempt to escape out of the same before quarantine duly performed, it shall and may be lawful to and for the said quarantine officers, and also the watchmen and other persons appointed to see quarantine performed, and each of them, and they are hereby respectively required, by such necessary force as the case shall require, to compel every such person so refusing or neglecting as aforesaid, and every such person so escaping or attempting to escape as aforesaid, to repair or return to such lazaret, ship, vessel, or place so appointed as aforesaid; and every person so refusing or neglecting to repair forthwith, as aforesaid, to the said lazaret, ship, vessel, or place, and also every person actually escaping as aforesaid, shall be adjudged guilty of felony, and suffer death, as in cases of felony, without benefit of clergy.

For punishing disobedience or refractory behaviour by force, in persons under or liable to quarantine, or persons having intercourse with them.

Penalty on disobedience, felony without clergy.

XXIV. And be it further enacted, That it shall be lawful for any constable, headborough, tythingman, or other peace officer, or any other person, to seize and apprehend any person that shall, contrary to the provisions of this Act, have quitted or come on shore from any ship or vessel liable to perform quarantine, or who shall have escaped from or quitted any ship or vessel under quarantine, or from any lazaret, ship, vessel, or place, appointed in that behalf; for the purpose of carrying such person before any justice of the peace or magistrate. And it shall be lawful for any such justice of the peace or magistrate to grant his warrant for the apprehending and conveying of any such person to the ship or vessel from which he or she shall have come on shore, or to any ship or vessel performing quarantine, or lazaret, from which he or she shall have escaped, or for the confining of any such person in any such place of safe custody, (not being any public jail,) and under such restrictions as to having any communication with any other persons, as may, in the discretion of any justice of the peace or magistrate, (calling to his aid, if he shall see fit, any medical person,) appear to

Persons quitting ships liable to perform quarantine, &c. may be seized.

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be proper, until such person can be safely and securely conveyed to some place appointed for the performance of quarantine, or until directions can be obtained from the privy council, as to the disposal of any such person, and to make any further order, or grant any further warrant, that may be necessary in that behalf.

[XXV. Indemnity for orders in council, for sending afloat to perform quarantine, persons who had had intercourse with a vessel from which danger was apprehended.]

Penalty on officers embezzling goods performing quarantine, or neglecting their duty, 100*l.* and incapacity.

XXVI. And be it further enacted, That if any officer of his Majesty's customs, or any other officer or person whatsoever to whom it doth or shall appertain to execute any order or orders made or to be made concerning quarantine, or the prevention of infection, and notified as aforesaid, or to see the same put in execution, shall knowingly and wilfully embezzle any goods or articles performing quarantine, or be guilty of any other wilful breach or neglect of his duty in respect of the ships, persons, goods, or articles performing quarantine, every such officer and person so offending shall forfeit such office or employment as he may be possessed of, and shall become from thenceforth incapable to hold or enjoy the same, or to take a new grant thereof; and every such officer and person shall forfeit and pay the sum of one hundred pounds; and if any such officer or person shall desert from his duty when employed as aforesaid, or shall knowingly and wilfully permit any person, ship, vessel, goods, or merchandize, to depart or be conveyed out of the said lazaret, ship, or other place as aforesaid, unless by permission under an order of his Majesty, by and with the advice of his privy council, or under an order of three or more of the lords or others of his privy council, or if any person hereby authorized and directed to give a certificate of a ship having duly performed quarantine or airing, shall knowingly give a false certificate thereof, every such person so offending shall be deemed guilty of felony, and suffer death, as in cases of felony without benefit of clergy; and if any such officer or person shall knowingly and wilfully damage any goods performing quarantine under his direction, he shall be liable to pay treble damages and full costs of suit to the owner of the same.

Permitting persons, ships, &c. to depart without authority, or giving false certificates, or damaging goods, felony without clergy.

Persons not infected entering the lazaret, shall perform quarantine, and attempting to escape, may be compelled to return; and such persons escaping shall be guilty of felony without clergy.

XXVII. And be it further enacted, That if any person not infected with the plague, or other infectious disease or distemper as aforesaid, nor liable to perform quarantine, shall enter the said lazaret, or other place so appointed as aforesaid, whilst any person or persons infected with the plague, or being under quarantine, shall be therein; such person so entering the said lazaret, or other place so appointed as aforesaid, shall perform quarantine there; and if he or she shall return or attempt to return from thence, unless in such cases and by such licences as shall be directed and granted by virtue of such order or orders of his Majesty in council, or of the lords or others of his Majesty's privy council, or any three or more of them, as aforesaid; it shall and may be lawful to and for the quarantine officers, watchmen, and other persons appointed to guard or secure the said lazaret or other place so appointed as aforesaid, by such necessary force as the case shall require, to compel such persons so returning or attempting to return, to repair into the said lazaret or other place so appointed as aforesaid, there to continue and perform quarantine; and in case such person shall actually escape out of the said lazaret, or other place where he or she ought to have performed quarantine, before he or she shall have fully performed the same, he or she shall be adjudged guilty of felony, and shall suffer death, as in cases of felony, without benefit of clergy.

[XXVIII. After proof of performance of quarantine, and proper certificate to that effect, vessels or persons shall not be liable to further detention.]

Goods liable to perform quarantine shall be opened and aired as directed by order in council, proof of which shall be

XXIX. And be it further enacted, That all goods, wares, and merchandize, and other articles liable to quarantine as aforesaid, shall be opened and aired in such place or places, and for such time and in such manner, as shall be directed by his Majesty, his heirs and successors, by such order or orders to be made as aforesaid; and after such orders shall have been duly complied with, a certificate thereof shall be given by the chief officer appointed to superintend the quarantine and airing of such goods, wares, and merchandize, and other articles, or by the person acting for him, and

proof thereof shall be made by the oaths of two or more credible witnesses, before the collector or other principal officer of the customs at the port lying next to such place or places where such goods, wares, or merchandize, or other articles, shall have been opened and aired as aforesaid, or before any justices of the peace living near the same, or before any two jurats or magistrates of the said isles of *Guernsey, Jersey, Alderney, Sark,* or *Man,* respectively; which collector or other principal officer, or such justice, or jurats or magistrates respectively, as the case may be, shall also make certificate of such proof having been made; and upon the production of such certificates to his Majesty's commissioners of the customs in *England* or *Scotland,* respectively, or to the governor or lieutenant-governor, commander in chief, or chief magistrates of any of the said last-mentioned islands, as the case may be, such goods, wares, and merchandize, and other articles, shall be forthwith discharged from any restraint or detention upon the same account, by order of the said commissioners, or any three or more of them, or of the said governor, lieutenant-governor, commander in chief, or chief magistrate respectively.

made before the officer of the customs, &c. who shall grant certificates thereof, which shall entitle them to be discharged from further detention.

XXX. And be it further enacted, That if any person shall knowingly and wilfully forge or counterfeit, or procure to be forged or counterfeited, any certificate directed and required to be granted by this Act, or shall publish as true any such forged or counterfeited certificate, knowing the same to be forged or counterfeited, he or she shall be adjudged guilty of felony, and shall suffer death, as in cases of felony, without benefit of clergy.

Penalty on persons forging certificates &c. felony without clergy.

XXXI. And be it further enacted, That if any person shall land or unship, or shall move, in order to the landing or unshipping thereof, any goods, wares, or merchandize, packets, packages, baggage, wearing apparel, books, letters, or any other articles whatever, from on board any ship or vessel liable to perform quarantine as aforesaid, or shall knowingly receive the same after they have been so landed or unshipped, every such person shall forfeit and pay a sum not exceeding the sum of five hundred pounds, nor less than the sum of one hundred pounds; and if any person or persons shall clandestinely convey, or shall secrete or conceal for the purpose of conveying, any letters, goods, wares, or merchandize, or other articles as aforesaid, from any ship or vessel actually performing quarantine, or from the lazaret or other place where such goods, wares, merchandize, or other articles as aforesaid shall be performing quarantine, every such person so offending as last aforesaid shall be adjudged guilty of felony, and shall suffer death, as in cases of felony, without benefit of clergy.

Penalty on persons landing goods, &c. from vessels liable to perform quarantine, or receiving them, or secreting them from vessels performing quarantine, 500*l.* to 100*l.*; and felony without clergy.

XXXII. And be it further enacted, That in case it shall at any time happen that any part of *Great Britain, Ireland,* or the isles of *Guernsey, Jersey, Alderney, Sark,* or *Man,* or *France, Spain,* or *Portugal,* or the *Low Countries,* shall be infected with the plague, or any other such infectious disease or distemper as aforesaid, it shall and may be lawful to and for his Majesty, his heirs and successors, by his or their proclamation, to prohibit and restrain all small boats and vessels under the burthen of twenty tons, from sailing or passing out of any port or place of *Great Britain,* or the isles of *Guernsey, Jersey, Alderney, Sark,* and *Man,* or any of them, until security be first given by the master of every such boat or vessel respectively, to the satisfaction of the principal officer of the customs, or the chief magistrate of the port or place from whence such boat or vessel shall sail, by bond taken by such officer or magistrate, to the King, his heirs or successors, with sufficient sureties, in the penalty of three hundred pounds, with condition that if such boat or vessel shall not go to or touch at any country, port, or place, to be mentioned for that purpose in such proclamation, and if neither the master or other person having charge of such boat or vessel, nor any mariner or passenger in such boat or vessel, shall, during the time aforesaid, go on board any other ship or vessel at sea, and such master, or other person having charge of such boat or vessel, shall not permit or suffer any person or persons to come on board such boat or vessel at sea, from any other ship or vessel, and shall not, during the time aforesaid, receive any goods and merchandize whatsoever, out of any other ship or vessel, then such bond shall be void; for the making of which bond no

His Majesty in cases of infection may prohibit vessels under twenty tons from sailing until bond be given by the master, conditioned not to touch at places specified, &c.

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fee or reward whatsoever shall be taken; and in case any boat or vessel, for which such security shall be required by such proclamation, shall set sail or pass out of any port or place of *Great Britain*, or the islands of *Guernsey*, *Jersey*, *Alderney*, *Sark*, and *Man*, or any of them respectively, before such security be given as aforesaid, every such boat or vessel so sailing or passing out of any port or place, contrary to the true intent and meaning of this Act, together with her tackle, apparel, and furniture, shall be forfeited to his Majesty, his heirs and successors, and the master of and every mariner sailing in any such boat or vessel, shall severally forfeit and pay the sum of twenty pounds.

Penalty for sailing without giving such security; forfeiture, and 20*l.* per man.

XXXIII. And be it further enacted, That the publication in the *London Gazette* of any order in council, or of any order by three or more of the Lords or others of his Majesty's Privy Council, made in pursuance of this Act, or his Majesty's royal proclamation, made in pursuance of the same, shall be deemed and taken to be sufficient notice to all persons concerned of all matters therein respectively contained.

Publication in London Gazette of orders of council, &c. sufficient notice.

XXXIV. And be it further enacted, That all forfeitures and penalties aforesaid, that shall be incurred by reason of any offence committed against any part of this Act, shall and may be recovered by suit in any of his Majesty's Courts of Record at *Westminster*, in which no essoign or wager of law, or more than one imparlance shall be granted, or in *Scotland* by summary action in the court of session, or by prosecution before the Court of Justiciary there, or by suit in any of his Majesty's courts in the islands of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man;* and every such forfeiture and penalty shall belong and be given, one moiety to the person who shall inform and sue for the same, and the other moiety to his Majesty, his heirs and successors, to be applied towards defraying the expences of erecting and maintaining the lazaret as aforesaid.

Recovery and application of penalties.

XXXV. Provided always, and be it further enacted, That it shall not be lawful for any person or persons whatsoever, to commence, prosecute, enter, or file, or cause to procure to be commenced, prosecuted, entered, or filed, any action, bill, plaint, information, or prosecution, or actions, bills, plaints, informations, or prosecutions, in any of his Majesty's courts in *England* or *Scotland*, or any proceeding or proceedings before any justices of the peace of any county, riding, division, city, town, stewartry, or place, for the recovery of any fine, penalty, or forfeiture, fines, penalties, or forfeitures, incurred by reason of any offence committed against this Act, or against any order or orders made by his Majesty, his heirs or successors, in council, or by any three or more of the Lords or others of his Majesty's privy council as aforesaid, unless the same be commenced, prosecuted, entered, or filed in the name of his Majesty's attorney general in *England*, or advocate in *Scotland*, respectively, or in the name or names of some officer or officers of the customs in *England* or *Scotland*, respectively; and if any action, bill, plaint, information, or prosecution, actions, bills, plaints, informations, or prosecutions, or any proceeding or proceedings before any justices as aforesaid, shall be commenced, prosecuted, entered, or filed, in the name or names of any other person or persons than is in that behalf before mentioned, the same shall be and are hereby declared to be null and void.

Actions for penalties shall be prosecuted in name of attorney general, &c.

XXXVI. Provided also, and be it further enacted, That in case any prosecution, suit, complaint, or other proceeding as aforesaid, shall be commenced or depending by any officer or officers of the customs, for the recovery of any fine, penalty, or forfeiture, fines, penalties, or forfeitures, incurred by reason of any offence committed against this Act, or against any order or orders made by his Majesty, his heirs or successors, in council, or by any three or more of the lords or others of his Majesty's privy council as aforesaid, it shall and may be lawful for his Majesty's attorney-general in *England*, or advocate in *Scotland*, respectively, to stop all further proceedings therein, as well with respect to the share of such fine, penalty, or forfeiture, fines, penalties, or forfeitures, to which any such officer or officers shall or may claim to be entitled, as to the share thereof belonging to his Majesty, if, upon consideration of the circumstances under which any such fine, penalty, or forfeiture, fines, penalties, or forfeitures,

In prosecutions by officers of the customs the attorney general in England or advocate in Scotland may stop proceedings.

may have been incurred, it shall appear to them respectively to be fit and proper so to do.

XXXVII. And be it further enacted, That in all cases wherein, by or by virtue and in pursuance of this Act, any examinations or answers shall be taken or made upon oath, the person who shall be authorized and required to take such examinations and answers, shall and shall be deemed to have full power and authority to administer such oaths; and if any person who shall be so interrogated or examined, shall wilfully swear falsely to any matter, concerning which such person shall depose or make oath on such examination or in such answers, or if any person shall procure any other person so to do, he or she so swearing falsely, or procuring any other person so to do, shall be deemed to have been guilty of, and shall be liable to be prosecuted for wilful and corrupt perjury, or subornation of wilful and corrupt perjury, as the case may be, and shall suffer the pains, penalties, and punishments, of the law, in such case respectively made and provided.

Persons authorized to take examinations may administer oaths, and persons swearing falsely, or procuring others so to do, shall be deemed guilty of perjury.

XXXVIII. And be it further enacted, That all offences committed against any of the provisions of this Act, not being felony, and every offence or disobedience to any order of council, made for the better carrying into execution this Act, for which no specific penalty, forfeiture, or punishment is provided by this Act, shall and may be tried, heard, and determined before any two justices of the peace of the county, riding, division, city, or place where such offence or disobedience shall happen; and if any person shall be convicted of any such offence or disobedience, he or she shall be liable to such forfeiture and penalty, not exceeding the sum of fifty pounds for any one offence, or to such imprisonment not exceeding three months for any one offence, as shall, in the discretion of the two justices who shall have heard and determined the same, be judged proper; and such forfeiture and penalty shall be paid, one moiety to the person suing for the same, and the other to his Majesty, to be applied as the moieties of other forfeitures and penalties hereinbefore directed to be applied.

Offences, not being felony, and offences not punished by specific penalty, may be determined before two justices, who, may fine not exceeding 50*l.* or imprison not exceeding three months.

XXXIX. Provided always, and it is hereby enacted, That no attainder of felony by virtue of this Act, shall be extended to work any corruption of blood, or forfeiture of any goods chattels, lands, tenements, or hereditaments.

No attainder of felony shall work corruption of blood, &c.

XL. And be it further enacted, That in any prosecution, suit, or other proceeding against any person or persons whatsoever, for any offence against this Act, or any Act which may hereafter be passed concerning quarantine, or for any breach or disobedience of any order or orders which shall be made by his Majesty, his heirs or successors, by and with the advice of his or their privy council concerning quarantine, and the prevention of infection, and notified or published as aforesaid, or of any order or orders made by three or more of the Lords or others of the privy council as aforesaid, the answer or answers of the commander, master, or other person having charge of any ship or vessel, to any questions or interrogatories put to him by virtue and in pursuance of this Act, or of any Act which may hereafter be passed concerning quarantine, or of any such order or orders as aforesaid, may and shall be given and received as evidence so far as the same relates or relate to the place from which such ship or vessel came, or to the place or places at which such ship or vessel touched in the course of her voyage; and where any ship or vessel shall have been directed to perform quarantine by the superintendant of quarantine or his assistant, or where there is no such superintendant or assistant, by the principal officer of the customs at any port or place, or other officer of the customs authorized as aforesaid to act in that behalf, the having been so directed to perform quarantine may and shall be given and received as evidence that such ship or vessel was liable to quarantine, unless satisfactory proof shall be produced by the defendant or defendants in any such prosecution, suit, or other proceeding, to shew that the ship or vessel did not come from or touch at any such place or places as is or are stated in the said answer or answers, or that such ship or vessel, although directed to perform quarantine, was not liable to the performance thereof; and where any ship or

Answers of persons having the charge of vessels shall be received as evidence, so far as relates to the places from which vessels came, or at which they touched, and the having been directed to perform quarantine shall be received as evidence that vessels were liable thereto, unless proof be made to the contrary, and the being performing quarantine shall be proof of vessels being liable to perform it.

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vessel shall in fact have been put under quarantine at any port or place, by the superintendant of quarantine or his assistant, or other officer of the customs authorized as aforesaid to act in that behalf, and shall actually be performing the same, such ship or vessel shall, in any prosecution, suit, or other proceeding against any person or persons whatever, for any offence against this Act, or any other Act which may hereafter be passed concerning quarantine, or against any order or orders concerning quarantine, and the prevention of infection, which shall be made by his Majesty in council, or by three or more of the Lords or others of his privy council as aforesaid, be deemed and taken to be liable to quarantine, without proving in what manner or from what circumstances such ship or vessel became liable to the performance thereof.

On affidavit of indictment filed for offences under this Act, a judge may cause the party to be apprehended, and if he refuse to become bound for appearance, he may be committed to gaol.

XLI. And be it further enacted, That whenever any person or persons shall be charged with any offence against this Act, or any Act which shall hereafter be passed concerning quarantine, or with any breach or disobedience of any order or orders which shall be made by his Majesty, his heirs or successors, in council as aforesaid, or of any order or orders made by the Lords or others of the privy council, or any three or more of them as aforesaid, and the same shall be made appear to any judge of his Majesty's Court of King's Bench, by affidavit or by certificate, of an indictment or information being filed against such person or persons in the said court for such offence, it shall and may be lawful for such judge to issue his warrant in writing under his hand and seal, and thereby to cause such person or persons to be apprehended and brought before him or some other judge of the said Court, or before some one of his Majesty's justices of the peace, in order to his, her, or their being bound to the King's Majesty with two sufficient sureties in such sum as in the said warrant shall be expressed, with condition to appear in the said court at the time mentioned in such warrant, and to answer to all and singular indictments or informations for any of the offences aforesaid; and in case such person or persons shall neglect or refuse to become bound as aforesaid, it shall be lawful for such judge or justice of the peace respectively, to commit such person or persons to the common gaol of the county, city, or place where the offence shall have been committed, or where he, she, or they shall have been so apprehended, until he, she, or they shall have become bound as aforesaid, or shall be discharged by order of the said Court of King's Bench in term time, or by one of the judges of the said court in vacation, and the recognizance or recognizances to be taken thereupon shall be returned and filed in the said court, and shall continue in force until such person or persons shall have been acquitted of such offence, or in case of conviction shall have received judgment for the same, unless sooner ordered by the said court to be discharged; and that where any person or persons, by virtue of such warrant and commitment as aforesaid, is or are now detained, or shall hereafter be committed and detained in any gaol for want of bail, it shall be lawful for the prosecutor of such indictment or information, to cause a copy thereof to be delivered to such person or persons, or to the gaoler, keeper, or turnkey of the gaol wherein such person or persons is, are, or shall be so detained, with a notice thereon indorsed, that unless such person or persons shall, within eight days from the time of such delivery of a copy of the indictment or information as aforesaid, cause an appearance, and also a plea or demurrer to be entered in the said court to such indictment or information, an appearance and the plea of not guilty will be entered thereto, in the name or names of such person or persons respectively; and in case he, she, or they shall thereupon, for the said space of eight days after such delivery of a copy of the indictment or information as aforesaid, neglect to cause an appearance, and also a plea or demurrer to be entered in the said court to such indictment or information, it shall be lawful for the prosecutor of such indictment or information, upon an affidavit being made and and filed in the said court, of a delivery of a copy of such indictment or information, with such notice indorsed thereon as aforesaid, to such person or persons, or to such gaoler, keeper, or turnkey, as the case may be, which affidavit may be made before any judge or commissioner of the said court authorized to take affidavits in the

Where persons are detained, prosecutor may cause a copy of the indictment to be delivered to the party or the gaoler, with notice to appear and plead, or demurr; and on failure in appearance, plea of not guilty may be entered by prosecutor, and trial shall proceed.

No. I.
45 Geo. III. c. 10.

said court, to cause an appearance and the plea of not guilty to be entered in the said court to such indictment or information, for such person or persons respectively; and such proceedings shall be had thereupon, as if the defendant or defendants in such indictment or information had appeared and pleaded not guilty, according to the usual course of the said court; and that if, upon the trial of such indictment or information, the defendant or defendants so committed and detained as aforesaid, shall be acquitted of all the offences therein charged upon him, her, or them, it shall be lawful for the judge before whom such trial shall be had, although he may not be one of the judges of the said court of King's Bench, to order that such defendant or defendants shall be forthwith discharged out of custody, as to his, her, or their commitment as aforesaid; and such defendant or defendants shall be thereupon discharged accordingly.

Defendant acquitted, may be discharged by the judge trying the offence.

XLII. And be it further enacted, That all offences committed contrary to, or in breach or violation of this or any other Act hereafter to be passed, or of any order or orders of his Majesty, his heirs or successors, now or hereafter to be made in his or their privy council, concerning quarantine, and the prevention of infection, and notified by proclamation, or published in the *London Gazette*, or of any order or orders made by three or more of the lords or others of the privy council as aforesaid, whether the said offence shall be done and committed within the body of any county, or upon the high seas or elsewhere, shall and may be tried, heard, and determined in any county within *England* or *Scotland*, or in the proper courts of the isles of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, respectively.

All offences against laws of quarantine may be tried in any county.

[XLIII. General issue.—Treble costs.—Limitation of actions, two months.]

[XLIV. Commencement of action; which may be altered or repealed this session.]

[No. II.] 46 George III. c. 98.—An Act for making additional and further Provisions for the effectual performance of Quarantine in *Great Britain*.—[16th *July* 1806.]

No. II.
46 Geo. III. c. 98.

'WHEREAS by an Act passed in the forty-fifth year of the reign of his present Majesty, intituled, *An Act for making further provision for the effectual performance of Quarantine*, certain signals are directed to be used on board of ships or vessels having clean bills of health, and certain other signals on board of ships or vessels not having clean bills of health, and it will be more conducive to the publick safety that a third signal should be used on board of ships or vessels having the plague or other infectious disease or distemper, highly dangerous to the health of his Majesty's subjects actually on board:' Be it therefore enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the tenth day of *October*, one thousand eight hundred and six, every commander, master, or other person having the charge of any ship or vessel, on board whereof the plague, or other infectious disease or distemper highly dangerous to the health of his Majesty's subjects, shall actually be, shall be, and is hereby required, at all times when such ship or vessel shall meet with any other ship or vessel at sea, or shall be within four leagues of the coast of *Great Britain*, or the islands of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, to hoist a signal to denote that his ship or vessel has the plague, or other infectious disease or distemper highly dangerous to the health of his Majesty's subjects actually on board thereof, which signal shall be in the day-time a flag of yellow and black, borne quarterly, of eight breadths of bunting, at the main top-mast head, and in the night-time the signal shall be two large signal lanthorns, (such as are commonly used on board of his Majesty's ships of war,) one over the other, at the same mast head; and such commander, master, or other person, shall keep such signal hoisted during such time as the said ship or vessel so having the plague, or such other infectious disease or distemper as aforesaid, on board thereof, shall continue within sight of such

45 Geo. III. c. 10. § 14.

Signal to be used by ships having the plague, &c. actually on board.

No. II. 46 Geo. III. c. 98.

other ship or vessel, or within four leagues of the said coasts or islands; and while so in sight, or within such distance, until such ship or vessel so having the plague, or such other infectious disease or distemper as aforesaid, on board thereof, shall have arrived at the port or place where it is to perform quarantine, and until it shall have been legally discharged from the performance thereof; on failure whereof, such commander, master, or other person having charge of such ship or vessel, shall forfeit and pay for every such offence the sum of two hundred pounds.

In addition to particulars required by 45 Geo. III. c. 10. § 16, master shall deliver account of cargo to pilot. Penalty 200*l.*

II. 'And whereas it is by the said recited Act enacted, that every commander, master, or other person, having the charge of any ship or vessel coming from foreign parts, shall give to the pilot who shall go on board such ship or vessel, a written paper containing a true account of the names of the place and country at which such ship or vessel shall have loaded; and also of all the places at which any such ship or vessel shall have touched on the homeward voyage: And whereas ships and vessels are or may be, by the order of his Majesty, his heirs or successors, in council, made liable to quarantine, by reason of their having on board thereof certain sorts of goods and merchandize more especially liable to retain infection; and it is expedient that the pilot going on board of such ships and vessels should also be informed of the cargo thereof;' Be it therefore enacted, That from and after the said tenth day of *October*, every commander, master, or other person, having the charge of any ship or vessel coming from foreign parts, which shall not be liable to quarantine in respect of the place from whence such ship or vessel comes, shall give to the pilot who shall go on board of such ship or vessel a written paper containing a true account of the different articles composing the cargo of such ship or vessel, on pain of forfeiting the sum of two hundred pounds for any neglect or refusal to give such paper, or for any false representation or wilful omission therein; and if by any proclamation or order of his Majesty in council then in force, ships and vessels having on board any of the articles mentioned in such paper, shall be liable to the performance of quarantine, such pilot shall immediately give notice thereof to the commander or other person having the charge of such ship or vessel, on pain of forfeiting the sum of one hundred pounds for any neglect therein; and such commander or other person shall thereupon hoist a proper signal, according to the provisions of the said recited Act, and under the respective penalties in the said recited Act, or in this Act contained, for any neglect or refusal in respect of hoisting such signals; and in case any pilot shall bring, or cause to be brought or conducted, any ship or vessel liable to the performance of quarantine, into any place which is not, or shall not be, specially appointed for the reception of ships and vessels so liable, after receiving such paper as aforesaid, whereby it shall have been made appear that such ship or vessel was liable to the performance of quarantine, or without requiring and receiving such paper as aforesaid, unless compelled thereto by stress of weather, adverse winds, or accidents of the seas; such pilots shall for every such offence forfeit and pay the sum of one hundred pounds.

Pilot shall give notice to the master if any articles be on board liable to quarantine. Penalty 100*l.* &c.

Commander shall hoist signals accordingly.

Penalty on pilot or master for not bringing to on request of quarantine officer, 100*l.*

III. 'And whereas, by the said recited Act, provision is made for ascertaining whether ships and vessels be liable to quarantine by means of interrogating the commander, master, or other person having the charge of such ships or vessels, for which purpose it is necessary that ships or vessels should be brought to, at the requisition of the officer of quarantine, which salutary provision has in some instances been and may again be eluded by the pilot on board, or by the commander, master, or other person having the charge of such ship or vessel:' Be it therefore enacted, That if any pilot being on board, or any commander, master, or other person having the charge of any ship or vessel coming from foreign parts, whether such ship or vessel shall be liable to quarantine or not, shall be required by any officer authorized by the commissioners of the customs, or any four of them, to act in the service of quarantine, to bring to such ship or vessel, to the end that the commander, master, or other person having the charge thereof, may be interrogated according to the provision of the said recited Act, and shall neglect or refuse to bring to such ship or vessel, as soon as it can be done with safety, in obedience to such requisition,

every such pilot, commander, master, or other person, having the charge of any such ship or vessel, shall for every such offence forfeit and pay the sum of one hundred pounds.

IV. 'And whereas, by the said recited Act, certain duties are imposed on 'ships and vessels which have performed quarantine; and by the same act 'a ship or vessel may be rendered liable to the performance of quarantine, 'by receiving any person or persons from or out of any other ship or ves- 'sel coming from or having touched at an infected place, under which pro- 'vision a ship or vessel not being originally liable to perform quarantine, 'may be rendered so liable by force, and against the will of the master and 'crew; and it is reasonable that such ship or vessel should be relieved 'from the payment of the said duties:' Be it therefore enacted, That no ship or vessel which shall be rendered liable to perform quarantine, solely by reason of having received on board thereof, by force, or against the will of the master and crew, any person or persons, shall be liable to or charged with any duty under the said recited Act, provided that it shall appear to the satisfaction of the commissioners of the customs, that such person or persons was or were received on board against the will of the master and crew of such ship or vessel.

Ships liable to quarantine solely by involuntary communication, exempt from duty, under 45 Geo. III. c. 10. § 3.

V. 'And whereas the mode prescribed by the said recited Act, for certi- 'fying that all goods, wares, and merchandize, and other articles liable to 'quarantine, have been duly opened and aired, conformably to the provi- 'sions in the same, have been found inconvenient:' Be it therefore enacted, That so much of the said recited Act as relates to the certificates and proof of opening and airing such goods, wares, merchandize, and other articles, shall be, and is hereby repealed; and that after such orders for the opening and airing of such goods, wares, and merchandize, and other articles, shall have been duly complied with, proof thereof shall be made by the oaths of the master of the lazaret or vessel in which the goods, wares, and merchandize, and other articles, shall have been opened and aired, and of one of the guardians, or if there be no guardian, then of one of the officers authorized by the commissioners of the customs, or any four of them, to act in the service of quarantine in such lazaret or vessel, or if there be no such officer, then by the oaths of two or more credible witnesses serving in the said lazaret or vessel, before the superintendant of quarantine, or his assistant, in case such opening and airing shall be had at a port or place where such superintendant or assistant shall be established, or otherwise before the principal officer authorized by the commissioners of the customs, or any four of them, to act in the service of quarantine at such port or place, which oath such superintendant, assistant, or principal officer is hereby authorized to administer; and such superintendant, assistant, or principal officer, as the case may be, shall make certificate of such proof having been made; and upon the production of such certificate to the proper officer of the customs, authorized by the said commissioners or any four of them, such goods, wares, or merchandize, and other articles, shall be liable to no further restraint or detention, either at the port or place where such quarantine shall have been performed, or at any other place whereto they may be afterwards conveyed.

Proof and certificate of goods having been opened and aired; [instead of the proof and certificate required by 45 Geo. III. c. 10. § 29.]

VI. And be it further enacted, That it shall and may be lawful for his Majesty, his heirs and successors, by his or their order in council, or for the lords and others of his or their privy council, or any three or more of them, by their order from time to time, as often as they may see reason to apprehend that the yellow fever, or other highly infectious distemper, prevails on the continent of *America*, or in the *West Indies*, to require that every ship and vessel coming from or having touched at any port or place on the continent of *America*, or in the *West Indies*, shall come to an anchor at certain places to be appointed from time to time by the commissioners of his Majesty's customs in *England* and *Scotland*, (who are hereby respectively authorized to make such appointment,) for the purpose of having the state of health of the crew of such ship or vessel ascertained before such ship or vessel shall be permitted to enter the port whereto she may be bound, or any other port of *Great Britain*; but that such ship or vessel

Privy council may order ships coming from America or the West Indies, when the yellow fever, &c. prevails there, to go to certain places *without* being liable to quarantine.

No. II. 46 Geo. III. c. 98.

shall not be deemed liable to quarantine, unless it shall be afterwards specially ordered under that restraint.

Intercourse within limits of stations allotted for quarantine of ships without clean bills of health, may be prohibited by order in council.

VII. 'And whereas it may be necessary, for the publick security, to prevent all communication whatever with ships or vessels performing quarantine without clean bills of health; and the danger of such communication is greatly increased by persons not being prevented from going within the stations allotted for the performance of quarantine by such ships or vessels:' Be it therefore further enacted, That it shall and may be lawful to and for his Majesty, his heirs or successors, by his or their order or orders in council, notified by proclamation, or published in the *London* Gazette, to prohibit all persons, ships, boats, and vessels whatsoever, from going, under any pretence whatsoever, within the limits of any station, which, by his Majesty, his heirs or successors, by any such order or orders in council, has been or may be assigned for the performance of quarantine by any ships or vessels without clean bills of health; and that if any person whatsoever, after such notification or publication of any such order or orders in council, shall presume, under any pretence whatsoever, to go with any ship, boat, or vessel within the limits of any such station, he or she shall, for every such offence, forfeit and pay the sum of five hundred pounds.

Penalty 500*l.*

Penalty on forging or uttering false certificates required by order in council, felony without clergy.

VIII. And be it further enacted, That if any person shall knowingly and wilfully forge or counterfeit, interline, erase, or alter, or procure to be forged or counterfeited, interlined, erased, or altered, any certificate directed or required to be granted by any order of his Majesty, his heirs or successors, in council, now in force, or hereafter to be made, touching quarantine and the prevention of infection, or shall publish as true, any such forged or counterfeited, interlined, erased, or altered certificate, knowing the same to be forged or counterfeited, interlined, erased, or altered, or shall knowingly and wilfully utter and publish any such certificate, with intent to obtain the effect of a true certificate to be given thereto, knowing the contents of such certificate to be false, he or she shall be adjudged guilty of felony, and shall suffer death, as in cases of felony, without benefit of clergy.

Consuls, &c. may administer oaths.

IX. And be it further enacted, That the consuls and vice-consuls of his Majesty, his heirs and successors, shall, and are hereby empowered to administer oaths in all cases respecting quarantine, in like manner as if they were magistrates of the several towns or places where they respectively reside.

Persons authorized to take examinations may administer oaths. Penalty of perjury, &c. on false oaths, &c.

X. And be it further enacted, That in all cases wherein, by virtue and in pursuance of this Act, or any other now in force or hereafter to be made touching quarantine, any examinations or answers shall be taken or made upon oath, the persons who shall be authorized and required to take such examinations and answers shall, and shall be deemed to have full power and authority to administer such oaths; and if any person who shall be so interrogated or examined shall wilfully swear falsely to any matter concerning which such person shall depose or make oath on such examination or in such answer, or if any person shall procure any other person so to do, he or she so swearing falsely, or procuring any other person so to do, shall be deemed to have been guilty of, and shall be liable to be prosecuted for wilful and corrupt perjury, or subornation of wilful and corrupt perjury, as the case may be, and shall suffer the pains, penalties, and punishments of the law, in such cases respectively made and provided.

[No. III.] 6. George IV. c. 78.—An Act to repeal the several laws relating to the performance of Quarantine, and to make other provisions in lieu thereof.—[27th *June* 1825.]

No. III.
6 Geo. IV.
c. 78.

WHEREAS it is expedient to repeal the several laws relating to the performance of quarantine, and to make other provisions in lieu thereof: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of *June* one thousand eight hundred and twenty-five, all and every Act, and all parts of Acts of the Parliament of *Great Britain* and *Ireland* respectively, and of the Parliament of the United Kingdom, relating to the performance of quarantine, or relating to the charging any duty or duties upon vessels which may be liable to, or have performed quarantine, shall be and the same is hereby repealed; save and except such Acts, and such parts of Acts, as relate to the payment and recovery of any duties imposed by the said Acts, or any parts of Acts, which shall be due and unpaid on the said first day of *June* by any person or persons under any or either of the said Acts; and also save and except as to any fine, penalty, forfeiture, or punishment, or fines, penalties, forfeitures, or punishments, to which any such person or persons may be liable by reason of the same; and also save and except as to any action, suit, prosecution, or other proceeding brought or commenced, or which shall hereafter be brought or commenced, for or on account of any such offence or offences so done or committed as aforesaid.

Acts relating to Quarantine repealed.

Exceptions.

II. And be it enacted, That from and after the first day of *June* one thousand eight hundred and twenty-five, all vessels, as well his Majesty's ships of war as others, coming from or having touched at any place from whence his Majesty, his heirs or successors, by and with the advice of his or their privy council, shall have adjudged and declared it probable that the plague or other infectious disease or distemper highly dangerous to the health of his Majesty's subjects may be brought, and all vessels and boats receiving any person, goods, wares, and merchandize, packets, packages, baggage, wearing apparel, books, letters, or any other article whatsoever, from or out of any vessel so coming from or having touched at such infected place as aforesaid, whether such persons, goods, wares, and merchandize, packets, packages, baggage, wearing apparel, books, letters, or other articles, shall have come or been brought in such vessels, or such persons shall have gone, or articles have been put on board the same, either before or after the arrival of such vessels at any port or place in the United Kingdom, or the Islands of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, and whether such vessels were or were not bound to any port or place in the United Kingdom, or the Islands aforesaid, and all persons, goods, wares, and merchandize, packets, packages, baggage, wearing apparel, books, letters, or any other article whatsoever on board of any vessels so coming from or having touched at such infected place as aforesaid, or on board of any such receiving vessels or boats as aforesaid, shall be and be considered to be liable to quarantine within the meaning of this Act, and of any order or orders which shall be made by his Majesty, his heirs and successors, by and with the advice of his or their privy council, concerning quarantine and the prevention of infection, from the time of the departure of such vessels from such infected place as aforesaid, or from the time when such persons, goods, wares, merchandize, packets, packages, baggage, wearing apparel, books, letters, or other articles shall have been received on board respectively; and all such vessels and boats as aforesaid, and all persons (as well pilots as others), goods, wares, and merchandize, and all other articles as aforesaid, whether coming or brought in such vessels or boats from such infected place as aforesaid, or going or being put on board the same, either before or after the arrival of such vessels or boats at any port or place in the United Kingdom, or the islands

What Vessels shall be liable to Quarantine.

No. III. 6 Geo. IV. c. 78.

aforesaid, and all persons, goods, wares, and merchandize, and other articles as aforesaid, on board such receiving vessel or boat as aforesaid, shall, upon their arrival at any such port or place, be obliged to perform quarantine in such place or places, for such time, and in such manner as shall from time to time be directed by his Majesty, his heirs or successors, by his or their order or orders in council, notified by proclamation, or published in the *London Gazette*; and that until such vessels and boats, persons, goods, wares and merchandize, and other articles as aforesaid, shall have respectively performed, and shall be duly discharged from quarantine, no such person, goods, wares, or merchandize, or other articles as aforesaid, or any of them, shall either before or after the arrival of such vessels or boats at any port or place in the United Kingdom, or the islands aforesaid, come or be brought on shore, or go and be put on board any other vessel or boat, in order to come or be brought on shore in any such port or place, although such vessels so coming from such infected place as aforesaid may not be bound to any port or place in the United Kingdom, or the islands aforesaid, unless in such manner and in such cases, and by such licence as shall be directed or permitted by such order or orders made by his Majesty, his heirs or successors, in council, as aforesaid; and all such vessels and boats, whether coming from such infected place as aforesaid, or being otherwise liable to quarantine as aforesaid, and all persons (as well pilots as others), goods, wares, and merchandize, and other articles as aforesaid, whether coming or brought in such vessels or boats, or going or being put on board the same, either before or after the arrival of such vessels or boats at any port or place in the United Kingdom, or the islands aforesaid, and although such vessels or boats shall not be bound to any port or place in the United Kingdom, or the islands aforesaid; and all commanders masters or other persons, having the charge or command of any such vessels or boats, whether coming from any infected place, or being otherwise liable to quarantine as aforesaid, shall be subject to all provisions, rules, regulations, and restrictions contained in this Act, or in any order or orders which shall be made by his Majesty, his heirs and successors, in council, as aforesaid, concerning quarantine and the prevention of infection, and to all the pains, penalties, forfeitures, and punishments contained in this Act for any breach or disobedience thereof, or of any order or orders of his Majesty in council made under the authority thereof.

Power for Privy Council to order Vessels coming from America or the West Indies, when the Yellow Fever, &c. prevails there, to go to certain Places without being liable to Quarantine.

III. And be it further enacted, That it shall and may be lawful for his Majesty, his heirs and successors, by his or their order in council, or for the lords or others of his or their privy council, or any two or more of them, by their order from time to time, as often as they may see reason to apprehend that the yellow fever or other highly infectious distemper prevails on the continent of *America*, or in the *West Indies*, to require that every vessel coming from or having touched at any port or place on the continent of *America* or in the *West Indies*, shall come to an anchor at certain places to be appointed from time to time by the commissioners of his Majesty's customs, (who are hereby authorized to make such appointment,) for the purpose of having the state of health of the crew of such vessel ascertained before such vessel shall be permitted to enter the port whereto she shall be bound, or any other port of the United Kingdom; but that such vessel shall not be deemed liable to quarantine unless it shall be afterwards specially ordered under that restraint.

Power to Lord Lieutenant, where the Urgency of the Case requires, to give Directions, by Proclamation, where Vessels shall perform Quarantine, &c.

IV. Provided always, and be it enacted, That it shall and may be lawful for the lord lieutenant or other chief governor or governors of *Ireland* by his or their order or orders, made by the advice and consent of his Majesty's privy council in *Ireland*, and notified by proclamation, to give directions, where the urgency of the case shall require, as to the place or places, and as to the time and manner in which ships and vessels arriving, and persons goods and merchandizes coming or imported into any port or place in *Ireland*, shall make their quarantine, in pursuance of the provisions of this Act, and that until such ships, vessels, persons, goods, and merchandizes shall have respectively performed and been discharged from such quarantine, pursuant to the provisions of this Act, it shall and may be lawful for any such persons goods or merchandizes, or any of them, to

come or be brought on shore, or to go or be put on board any other ship or vessel in any place in *Ireland*, in such cases, and by such licence as shall or may be directed or permitted by any order or orders to be made by the lord lieutenant, or other chief governor or governors of *Ireland*, by the advice and consent of the privy council there, and notified as aforesaid; and that all such ships and vessels, and the persons or goods coming or imported in, or going and being put on board such ships or vessels, and all ships, vessels, boats, and persons receiving any goods or persons out of the same, and all persons going on board any such ship or vessels, shall be subject to such orders rules and directions concerning quarantine and the preventing infection, as shall be made from time to time by the lord lieutenant or other chief governor or governors of *Ireland* in council, and shall be notified by proclamation as aforesaid, in pursuance of the provisions contained in this Act; and that the publication in the *Dublin Gazette* of any order or orders of the lord lieutenant or other chief governor or governors and council made in pursuance of this Act, shall be deemed and taken to be sufficient notice to all persons concerned, of all matters contained in any such order or orders respectively.

Goods and Vessels specified in any Order of Council subject to Quarantine; as also all Vessels arriving from any Port under suspicious Circumstances as to Infection.

V. And whereas certain sorts of goods and merchandize are more especially liable to retain infection, and may be brought from places infected into other countries, and from thence imported into the United Kingdom, or the islands aforesaid; be it enacted, That all such goods and merchandize as shall be particularly specified for that purpose in any order or orders made by his Majesty, his heirs or successors, in council, concerning quarantine and the prevention of infection as aforesaid, which shall be brought or imported into any port or place in the United Kingdom, or the islands aforesaid, from any foreign country or place, in any vessel whatever, and the vessels in which the same shall be brought, and also all vessels which shall arrive from any port or place whatever, under any alarming or suspicious circumstances as to infection, shall be subject and liable to such regulations and restrictions as shall be made by such order or orders of his Majesty, his heirs or successors, in council as aforesaid, respecting the same.

The Privy Council may make such Order as they shall think necessary upon Emergencies.

VI. And be it further enacted, That it shall and may be lawful for the lords and others of his Majesty's privy council, or any two or more of them, to make such order as they shall see necessary and expedient upon any unforeseen emergency, or in any particular case or cases with respect to any vessel arriving and having any infectious disease or distemper on board, or on board of which any infectious disease or distemper may have appeared in the course of the voyage, or arriving under any other alarming or suspicious circumstances as to infection, although such vessels shall not have come from any place from which his Majesty, his heirs or successors, by and with the advice of his privy council, may have adjudged and declared it probable that the plague or any such infectious disease or distemper may be brought, and also with respect to the persons, goods, wares and merchandize, and other articles as aforesaid on board the same; and in case of any infectious disease or distemper appearing or breaking out in the United Kingdom, or the islands aforesaid, to make such orders and give such direction, in order to cut off all communication between any persons infected with any such disease or distemper, and the rest of his Majesty's subjects, as shall appear to the said lords or others of his Majesty's privy council, or any two or more of them, to be necessary and expedient for that purpose, and likewise to make such orders as they shall see fit, for shortening the time of quarantine to be performed by particular vessels or particular persons, goods, wares, merchandize, or any other articles, or for absolutely or conditionally releasing them or any of them from quarantine; and all such orders so made by the lords or others of the privy council, or any two or more of them as aforesaid, shall be as good, valid and effectual, to all intents and purposes, as well with respect to the commander master or other person having the charge of any vessel, and all other persons on board the same, as with respect to any other persons having any intercourse or communication with them, and to the penalties

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forfeitures and punishments to which they may respectively become liable as any order or orders made by his Majesty, his heirs or successors, by and with the advice of his or their privy council, concerning quarantine, notified by proclamation or published in the *London Gazette*.

Regulations for Vessels in which Infection shall appear within or without the Streights of Gibraltar.

VII. And be it further enacted, That if the plague, or such other infectious disease or distemper as aforesaid, shall appear on board any vessel within or without the streights of *Gibraltar*, then the commander master or other person having the charge or command thereof, shall immediately proceed to such place as his Majesty, his heirs or successors, by and with the advice of his or their privy council, shall from time to time direct and appoint; where being arrived, he shall make known his case to some officer of the customs there, who shall with all possible speed send intelligence thereof to the commissioners of the customs in the port of *London*, to the end that such precautions may be used to prevent the spreading of the infection, as the case shall require; and the said vessel shall there remain until directions shall be given thereto by the lords or others of his Majesty's privy council, or any two or more of them; nor shall any of the crew or passengers on board thereof go on shore; and such master and every other person on board such vessel shall obey such directions as he shall receive from the lords and others of his Majesty's privy council, or any two or more of them as aforesaid; and the said commander master or any other person on board such vessel as aforesaid, who shall not act conformably to the provisions and regulations herein directed, or shall act in disobedience to such directions as shall be received on board such vessel from the lords or others of the privy council, or any two or more of them as aforesaid, shall forfeit the sum of one hundred pounds.

Masters of Vessels liable to Quarantine to make Signals on meeting other Vessels at Sea, or being within Two Leagues of the United Kingdom, or Guernsey, &c. on Penalty of 100*l*.

VIII. And be it further enacted, That every commander master or other person having the charge of any vessel liable to the performance of quarantine, shall be and is hereby required, at all times, when such vessel shall meet with any other vessel at sea, or shall be within two leagues of the coast of the United Kingdom, or the islands of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, to hoist a signal to denote that his vessel is liable to the performance of quarantine, which signal shall in the day-time, if the said vessel shall have a clean bill of health, a large yellow flag, of six breadths of bunting, at the maintop mast-head, and if such vessel shall not have a clean bill of health, then a like yellow flag, with a circular mark or ball, entirely black in the middle thereof, whose diameter shall be equal to two breadths of bunting; and in the night-time the signal shall in both cases be a large signal lanthorn with a light therein (such as is commonly used on board his Majesty's ships of war), at the same mast-head: and such commander master or other person shall keep such signals respectively, as the case shall be, hoisted during such time as the said vessel shall continue within sight of such other vessel, or within two leagues of the said coasts or islands, and while so in sight, or within such distance, until such vessel so liable to quarantine as aforesaid shall have arrived at the port or place where it is to perform quarantine, and until it shall have been legally discharged from the performance thereof; on failure whereof such commander master or other person having charge of such ship or vessel so liable to the performance of quarantine, shall forfeit and pay for every such offence the sum of one hundred pounds.

Masters of Vessels to hoist certain Signals when Plague or infectious Disease on board, on Penalty of 100*l*.

IX. And be it further enacted, That every commander master or other person having the charge of any vessel on board whereof the plague or other infectious disease or distemper highly dangerous to the health of his Majesty's subjects shall actually be, shall be and is hereby required at all times when such vessel shall meet with any other vessel at sea, or shall be within two leagues of the coast of the United Kingdom, or the islands of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, to hoist a signal to denote that his vessel has the plague or other infectious disease or distemper highly dangerous to the health of his Majesty's subjects actually on board thereof, which signal shall be in the day-time a flag of yellow

and black borne quarterly, of eight breadths of bunting, at the maintop mast-head, and in the night-time, the signal shall be two large signal lanthorns, such as are commonly used on board of his Majesty's ships of war, one over the other, at the same mast-head; and such commander master or other person shall keep such signal hoisted during such time as the said vessel so having the plague or such other infectious disease or distemper as aforesaid on board thereof, shall continue within sight of such other vessel, or within two leagues of the coasts or islands aforesaid, while so in sight or within such distance, until such vessel so having the plague or such other infectious disease or distemper as aforesaid on board thereof, shall have arrived at the port or place whereit is to perform quarantine, and until it shall have been legally discharged from the performance thereof; on failure thereof such commander master or other person having charge of such vessel shall forfeit and pay for every such offence the sum of one hundred pounds.

Penalty on Persons hoisting Signals when not liable, 50*l.*

X. And be it further enacted, That if any commander master or other person having the charge or command of any vessel, and knowing that the same is not liable to the performance of quarantine, shall hoist such signal as aforesaid, or either of them, by day or night respectively, such commander or other person as aforesaid shall forfeit and pay the sum of fifty pounds.

Masters of Vessels on their Arrival from Foreign Parts, to give to the Pilots an Account of the Places at which they shall have loaded and touched, on Penalty of 100*l.*

XI. And be it further enacted, That from and after the first day of *July* one thousand eight hundred and twenty-five, as to all vessels arriving from any places beyond the *Cape of Good Hope*, or *Cape Horn* in *South America*, and after the first day of *August* one thousand eight hundred and twenty-five, as to all vessels arriving from any parts of *Africa* or *America* not beyond those capes, and from the *Vest Indies* and *Mediterranean*, and from and after the first day of *June* one thousand eight hundred and twenty-five, as to all vessels arriving from any other places, every commander master or other person having the charge of any vessel coming from foreign parts, shall give to the pilot who shall go on board such vessel a written paper, containing a true account of the names of the place and country at which such vessel shall have loaded, and also of all the places at which any such vessel shall have touched on the homeward voyage, on pain of forfeiting the sum of one hundred pounds for any neglect or refusal to give such paper, or for any false representation or wilful omission therein; and if by any proclamation or order of his Majesty in council, made after the departure of any vessel from the United Kingdom and the said islands, and then in force, vessels coming from any place mentioned in any such paper shall be liable to the performance of quarantine, such pilot shall immediately give notice thereof to the commander or other person aforesaid, of such vessel, on pain of forfeiting the sum of one hundred pounds for any neglect therein; and such commander or other person shall thereupon hoist a proper signal, according to the provisions of this Act, and under the penalties in this Act contained for any neglect or refusal in respect of hoisting such signals.

Pilots to give Notice of any Proclamation or Order in Council requiring the Performance of Quarantine, on Penalty of 100*l.*

Pilot to give Notice if any Articles be on board liable to Quarantine, on Penalty of 100*l.*

XII. And be it further enacted, That every commander master or other person having the charge of any vessel coming from foreign parts, which shall not be liable to quarantine in respect of the place from whence such vessel comes, shall give to the pilot who shall go on board of such vessel a written paper, containing a true account of the different articles composing the cargo of such vessel, on pain of forfeiting the sum of fifty pounds for any neglect or refusal to give such paper, or for any false representation or wilful omission therein; and if by any proclamation or order of his Majesty in council then in force, vessels having on board any of the articles mentioned in such paper shall be liable to the performance of quarantine, such pilot shall immediately give notice thereof to the commander or other person having the charge of such vessel, on pain of forfeiting one hundred pounds for any neglect therein, and such commander or other person shall thereupon hoist a signal, according to the provisions and under the respective penalties in this Act contained, for any

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neglect or refusal in respect of hoisting such signals; and in case any pilot shall bring or cause to be brought or conducted any vessel liable to the performance of quarantine, into any place which is not or shall not be specially appointed for the reception of vessels so liable, after receiving such paper as aforesaid, whereby it shall have been made appear that such vessel was liable to the performance of quarantine, or without requiring and receiving such paper as aforesaid, unless compelled thereto by stress of weather, adverse winds, or accidents of the sea, such pilot shall for every such offence forfeit and pay the sum of two hundred pounds.

Penalty on Pilots conducting Vessels to any other Place than that appointed for their Reception, 200*l.*

XIII. And be it further enacted, That if any pilot being on board, or any commander master or other person having the charge of any vessel coming from foreign parts, whether such vessel shall be liable to quarantine or not, shall be required by any officer of the customs, authorized to act in the service of quarantine, to bring to such vessel, to the end that the commander master or other person having the charge thereof may be interrogated, according to the provision of this Act, and shall neglect or refuse to bring to such vessel, as soon as it can be done with safety, in obedience to such requisition, every such pilot, commander, master, or other person having the charge of any such vessel shall for every such offence forfeit and pay the sum of one hundred pounds.

Pilot to bring to at request of Officer of Customs, on Penalty of 100*l.*

For better ascertaining whether Vessels be actually infected, or the Persons on board liable to Orders touching Quarantine.

XIV. And to the end that it may be better known whether any vessel be actually infected with the plague or other infectious disease or distemper as aforesaid, or whether such vessel, or the mariners or passengers coming, or the cargo imported in the same, are liable to any orders touching quarantine; be it further enacted, That when any country or place shall be known or suspected to be infected with the plague or other infectious disease or distemper as aforesaid, or when any order or orders shall be made by his Majesty in council concerning quarantine and the prevention of infection as aforesaid, then and in such case, as often as any vessel shall attempt to enter into any port or place in the United Kingdom, or of the isles of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, whether such port shall have been appointed for the performance of quarantine or not, the superintendant or assistant at such port or place, or if not, the principal officer of his Majesty's customs at such port or place, or such officer of the customs as shall be authorized to act in that behalf, shall go off to such vessel, and shall, at a convenient distance from such vessel, demand of the commander master or other person having charge of such vessel, and such commander master or other person shall, upon such demand, give a true answer in writing or otherwise, and upon oath or not upon oath, according as he shall by such superintendant or his assistant, or other officer of the customs authorized as aforesaid, be required, to all such questions or interrogatories as shall be put to him by virtue and in pursuance of such regulations and directions as his Majesty by order in council shall be pleased to prescribe; and in case such commander or master or other person having charge of such vessel shall, upon such demand made as aforesaid, refuse to make a true discovery in any of the particulars concerning which he shall be interrogated in manner aforesaid, or in case he shall not be required to answer such questions or interrogatories upon oath, shall give a false answer to any such question or interrogatory as aforesaid, such commander master or other person having charge of such vessel for every such offence shall forfeit and pay the sum of two hundred pounds.

Masters of Vessels refusing to answer Interrogatories, &c., to forfeit 200*l.*

Vessels subject to Quarantine arriving at any Port than that at which it ought to be performed, may be forced to repair to the appointed Place.

XV. And be it further enacted, That in case it shall appear upon such examination or otherwise, that such vessel is under such circumstances as shall render it liable to perform quarantine, and that the port or place where it so arrived, or at which it attempts to enter as aforesaid, is not the port or place where it ought to perform quarantine, in which case it shall and may be lawful to and for the officers of any of his Majesty's ships of war, or of any of his Majesty's forts or garrisons, and all other his Majesty's officers, upon notice thereof given to them, or any of them respectively, and to and for any other person or persons whom they shall call to their aid and assistance, and such officers and other persons are hereby required to oblige such vessel to go and re-

pair to such place as hath been or shall be appointed for performance of quarantine, and to use all necessary means for that purpose, either by firing of guns upon such vessel, or by any other kind of necessary force whatsoever; and in case any such vessel shall come from, or shall have touched at any place infected by the plague or such other infectious disease or distemper as aforesaid, or shall have any person on board actually infected with the plague or other such infectious disease or distemper as aforesaid, and the commander master or other person having charge of such vessel, knowing that the place from whence he came, or at which he had touched as aforesaid, was infected with the plague or such other infectious disease or distemper, or knowing some person on board to be actually infected with the plague or such other infectious disease or distemper as aforesaid, shall refuse or omit to disclose the same upon such examination as aforesaid, or shall wilfully omit to hoist the signal h reinbefore directed, to denote that his vessel is liable to the performance of quarantine, at the times and on the occasions herein directed with respect to the same, such commander master or other person having charge of such vessel shall forfeit the sum of three hundred pounds.

Masters of Vessels that have touched at infected Places, &c. omitting to disclose the same, or omitting to hoist the prescribed Signal, to forfeit 300*l.*

XVI. And be it further enacted, That every commander master or other person having charge of any vessel which shall be ordered to perform quarantine as aforesaid, shall forthwith, after his arrival at the place appointed for the performance of quarantine, deliver on demand to the superintendant of quarantine or his assistant or other officer of the customs authorized to act in that behalf, and which superintendant assistant or other officer as aforesaid is hereby required to make such demand, his bill of health and manifest together with his log book and journal, under pain of forfeiting the sum of one hundred pounds if he shall wilfully refuse or neglect so to do.

Commanders to deliver up Bills of Health, Manifests, and Log Book, to the Superintendant of Quarantine, on Penalty of 100*l.*

XVII. And be it further enacted, That if any commander master or other person having charge of any vessel liable to perform quarantine, and on board of which the plague or other infectious disease or distemper shall not then have appeared, shall himself quit, or shall knowingly permit or suffer any seaman or passenger coming in such vessel to quit such vessel by going on shore, or by going on board any other vessel or boat, before such quarantine shall be fully performed, unless by such licence as shall be granted by virtue of any order in council to be made concerning quarantine as aforesaid, or in case any commander or other person having charge of such vessel shall not, within a convenient time after due notice given for that purpose, cause such vessel and the lading thereof to be conveyed into the place or places appointed for such vessel and lading to perform quarantine; then and in every such case every such commander master or other person as aforesaid, for every such offence shall forfeit and pay the sum of four hundred pounds; and if any such person coming in any such vessel liable to quarantine (or any pilot or other person going on board the same, either before or after the arrival of such vessel at any port or place in the United Kingdom, or the islands aforesaid), shall, either before or after such arrival, quit such vessel, unless by such licence as aforesaid, by going on shore in any port or place in the United Kingdom, or the islands aforesaid, or by going on board any other vessel or boat, with intent to go on shore as aforesaid, before such vessel so liable to quarantine as aforesaid shall be regularly discharged from the performance thereof, it shall and may be lawful for any person whatsoever, by any kind of necessary force, to compel such pilot or other person so quitting such vessel so liable to quarantine to return on board the same; and every such pilot or other person so quitting such vessel so liable to quarantine shall for every such offence suffer imprisonment for the space of six months, and shall forfeit and pay the sum of three hundred pounds.

Penalty on Masters, &c. quitting Vessels, or permitting Persons to quit them, or not conveying same to the appointed Places, 400*l.*

Penalty on Persons coming in such Vessels, or going on board, and quitting them before discharged from Quarantine, to suffer Imprisonment for Six Months, and forfeit 300*l.*

XVIII. And whereas disobedience or refractory behaviour in persons under quarantine or liable to the performance of quarantine, or in other persons who may have had any intercourse or communication with them, may be attended with very great danger to his Majesty's subjects; be it further enacted, That all persons liable to perform quarantine, and all per-

For *punishing* Disobedience or refractory Behaviour in Persons under or liable to Quarantine, or Persons having Intercourse with them.

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sons having had any intercourse or communication with them, whether in vessels or in a lazaret or elsewhere, shall be subject, during the said quarantine, or during the time they shall be liable to quarantine, to such orders as they shall receive from the superintendant of quarantine, or his assistant, or from the principal officer of the customs at any port or place where there is no such superintendant or assistant, or from any other officer of the customs authorized to act in that behalf, and the said officers are hereby empowered and required to enforce all necessary obedience to the said orders, and in case of necessity to call in others to their assistance, and all persons so called in are hereby required to assist accordingly; and such officers shall and they are hereby empowered and required to compel all persons liable to perform quarantine as aforesaid, and persons having had any intercourse or communication with them, to repair to such lazaret vessel or place, and to cause all goods wares and merchandize, and other articles comprised within any such orders to be made as last aforesaid, to be conveyed to such lazaret vessel or place duly appointed in that behalf, in such manner and according to such directions as shall be made by order of his Majesty in council as aforesaid, or of the lords or others of the privy council, or of any two or more of them; and if any person or persons liable to perform quarantine as aforesaid or any person or persons having had any intercourse or communication with him her or them, shall wilfully refuse or neglect to repair forthwith, when required and directed so to do by such officers as aforesaid, to the said lazaret vessel or place duly appointed in that behalf, or having been placed in the said lazaret vessel or place, shall escape or attempt to escape out of the same before quarantine duly performed, it shall and may be lawful to and for the said quarantine officers, and also the watchmen and other persons appointed to see quarantine performed, and each of them, and they are hereby respectively required, by such necessary force as the case shall require, to compel every such person so refusing or neglecting as aforesaid, and every such person so escaping or attempting to escape as aforesaid, to repair or return to such lazaret vessel or place so appointed as aforesaid; and every person so refusing or neglecting to repair forthwith as aforesaid to the said lazaret vessel or place, and also every person actually escaping as aforesaid, shall forfeit the penalty of two hundred pounds.

Persons refusing to repair to the Lazaret or Vessel, to forfeit 200*l.*

Persons quitting Vessels liable to perform Quarantine, &c., may be seized.

XIX. And be it further enacted, That it shall be lawful for any constable, headborough, tithingman, or other peace officer, or any other person, to seize and apprehend any person that shall, contrary to the provisions of this Act, have quitted or come on shore from any vessel liable to perform quarantine, or who shall have escaped from or quitted any vessel under quarantine, or from any lazaret vessel or place appointed in that behalf, for the purpose of carrying such person before any justice of the peace or magistrate; and it shall be lawful for any such justice of the peace or magistrate to grant his warrant for the apprehending and conveying of any such person to the vessel from which he or she shall have come on shore, or to any vessel performing quarantine or lazaret, from which he or she shall have escaped, or for the confining of any such person in any such place of safe custody (not being a public gaol), and under such restrictions as to having any communication with any other persons, as may in the discretion of any justice of the peace or magistrate (calling to his aid, if he shall see fit, any medical person) appear to be proper, until such person can be safely and securely conveyed to some place appointed for the performance of quarantine, or until directions can be obtained from the privy council as to the disposal of any such person, and to make any further order, or grant any further warrant that may be necessary in that behalf.

Intercourse with Stations allotted for Quarantine of Vessels, may be prohibited by Order in Council.

XX. And whereas it may be necessary for the public security to prevent all communication whatever with vessels performing quarantine; be it therefore further enacted, That it shall and may be lawful to and for his Majesty, his heirs or successors, by his or their order or orders in council, notified by proclamation or published in the *London Gazette*, to prohibit all persons vessels and boats whatsoever, from going, under any

pretence whatsoever, within the limits of any station which by any order or orders in council as aforesaid, has been or may be assigned for the performance of quarantine; and if any person whatsoever, after such notification or publication of any such order or orders in council, shall presume, under any pretence whatsoever, to go with any vessel or boat within the limits of any such station, he or she shall for every such offence, forfeit and pay the sum of two hundred pounds.

Penalty on Persons embezzling Goods performing Quarantine, neglecting or deserting their Duty, or permitting Persons, Vessels, &c., to depart without Authority, or giving false Certificates or damaging Goods.

XXI. And be it further enacted, That if any officer of his Majesty's customs, or any other officer or person whatsoever, to whom it doth or shall appertain to execute any order or orders made or to be made concerning quarantine, or the prevention of infection, and notified as aforesaid, or to see the same put in execution, shall knowingly and wilfully embezzle any goods or articles performing quarantine, or be guilty of any other breach or neglect of his duty in respect of the vessels, persons, goods, or articles performing quarantine, every such officer or person so offending shall forfeit such office or employment as he may be possessed of, and shall become from thence incapable to hold or enjoy the same, or to take a new grant thereof; and every such officer and person shall forfeit and pay the sum of two hundred pounds; and if any such officer or person shall desert from his duty when employed as aforesaid, or shall knowingly and willingly permit any person, vessel, goods, or merchandize to depart or be conveyed out of the said lazaret vessel or other place as aforesaid unless by permission under an order of his Majesty, by and with the advice of his privy council, or under an order of two or more of the lords or others of his privy council; or if any person hereby authorized and directed to give a certificate of a vessel having duly performed quarantine or airing, shall knowingly give a false certificate thereof, every such person so offending shall be guilty of felony; and if any such officer or person shall knowingly or wilfully damage any goods performing quarantine under his direction, he shall be liable to pay one hundred pounds damages and full costs of suit to the owner of the same.

Vessels from the Mediterranean, Turkey, or Africa, having undergone Examination and released from Quarantine, to be admitted to Entry upon producing a Certificate of such Examination.

XXII. And be it further enacted, That if any vessel arriving from the *Mediterranean*, or from any port in *Turkey* or *Africa*, shall have undergone examination by the proper officer of quarantine and upon a report of such examination being made to the lords or others of his Majesty's privy council, their lordships shall think proper to direct the release of such vessel from the performance of quarantine, it shall be lawful for such officer, and he is hereby required to grant to the master or person having the charge or command of such vessel, a certificate in writing of such examination and release, and upon the production of such certificate to the collector or principal officer of his Majesty's customs, at any port in the United Kingdom, such vessel shall be admitted to entry without being liable to any further restraint.

After Proof of Performance of Quarantine, and proper Certificate to that Effect, Vessels or Persons shall not be liable to further Detention.

XXIII. And be it further enacted, That after quarantine shall have been duly performed by any vessel, person or persons obliged to perform quarantine as aforesaid, according to this Act, and to such order or orders made as aforesaid, and upon proof to be made by the oaths of the master or other person having charge of such vessel, and of three or more of the persons belonging thereto, or upon proof to be made by the oaths of two or more credible witnesses, before the collector or principal officer of the customs at the port where such quarantine shall be performed, or at the port nearest thereto, or before the superintendant of quarantine, or his assistant at the quarantine station, or before any justice of the peace living near to the port or place, or when such quarantine shall have been performed within any of the said isles of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, before any two jurats or magistrates of any of the said isles respectively, that such vessel, and all and every such person and persons respectively, have duly performed quarantine as aforesaid, and that the vessel and all and every person and persons are free from infection, and after producing a certificate to that purpose, signed by the chief officer who superintended the quarantine of the said vessel, or person acting for him, then and in the said respective cases, such collector or principal officer of the customs, or the superintendant of quarantine, or his assist-

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ant, or such justice of the peace, or such jurats or magistrates as aforesaid, respectively, are hereby required to give a certificate thereof, and thereupon such vessel, and all and every such person or persons so having performed quarantine, shall be liable to no further restraint or detention upon the same account, for which such vessel person or persons shall have performed quarantine as aforesaid.

Goods liable to perform Quarantine shall be opened and aired, as directed by Order in Council, and Proof thereof to be made, &c.

XXIV. And be it further enacted, That all goods, wares, merchandize, and other articles liable to quarantine as aforesaid, shall be opened and aired in such place or places, and for such time and in such manner as shall be directed by his Majesty, his heirs and successors, by such order or orders to be made as aforesaid, and after such orders shall have been duly complied with, proof thereof shall be made by the oaths of the master of the lazaret or vessel in which the goods wares and merchandize and all other articles shall have been opened and aired, and of one of the guardians, or if there be no guardians, then one of the officers authorized by the commissioners of customs to act in the service of quarantine in such lazaret or vessel, or if there be no such officer, then by the oaths of two or more credible witnesses serving in the said lazaret or vessel, before the superintendant of quarantine or his assistant, in case such opening and airing shall be had at a port or place where such superintendant or assistant shall be established, or otherwise before the principal officer of the customs authorized to act in the service of quarantine at such port or place, which oath such superintendant assistant or principal officer is hereby authorized to administer; and such superintendant assistant or principal officer, as the case may be, shall grant a certificate of such proof having been made, and upon production of such certificate to the proper officer of the customs, such goods wares and merchandizes, and other articles, shall be liable to no further restraint or detention either at the port or place where such quarantine shall have been performed, or at any other place whereto they be afterwards conveyed.

Persons forging or uttering false Certificates required by Order in Council, guilty of Felony.

XXV. And be it further enacted, That if any person shall knowingly or wilfully forge or counterfeit, interline, erase, or alter, or procure to be forged or counterfeited, interlined, erased, or altered, any certificate directed or required to be granted by any order of his Majesty, his heirs or successors in council, now in force or hereafter to be made touching quarantine, or shall publish any such forged or counterfeited, interlined, erased, or altered certificate, knowing the same to be forged or counterfeited interlined, erased, or altered, or shall knowingly and wilfully utter and publish any such certificate with intent to obtain the effect of a true certificate, to be given thereto, knowing the contents of such certificate to be false, he or she shall be guilty of felony.

Penalty on Persons landing Goods, &c. from Vessels liable to perform Quarantine, or receiving them, or secreting them from Vessels performing Quarantine, 100*l.*

XXVI. And be it further enacted, That if any person shall land or unship, or shall move in order to the landing or unshipping thereof, any goods, wares, or merchandize, packets, packages, baggage, wearing apparel, books, letters, or other articles from on board any vessel liable to perform quarantine as aforesaid, or shall knowingly receive the same after they have been so landed or unshipped, every such person shall forfeit and pay the sum of five hundred pounds; and if any person or persons shall clandestinely convey, or secrete or conceal for the purpose of conveying, any letters, goods, wares, or merchandize or other articles as aforesaid, from any vessel actually performing quarantine, or from the lazaret or other place where such goods, wares, merchandize, or other articles as aforesaid shall be performing quarantine, every such person so offending as last aforesaid shall forfeit the sum of one hundred pounds,

His Majesty in certain Cases may prohibit Vessels under 100 Tons from sailing until Bond be given by the Master with certain Conditions.

XXVII. And be it further enacted, That in case it shall at any time happen that any part of the United Kingdom, or the islands of *Guernsey Jersey, Alderney, Sark,* or *Man,* or *France, Spain,* or *Portugal,* or the *Low Countries,* shall be infected with the plague, or any other infectious disease or distemper as aforesaid, it shall and may be lawful to and for his Majesty, his heirs and successors, by his or their proclamation, to prohibit or restrain all vessels and boats under the burthen of one hundred tons from sailing or passing out of any port or place of the United Kingdom, or the isles of *Guernsey, Jersey, Alderney, Sark,* or *Man,* or any of them,

until security be first given by the master of every such vessel or boat respectively, to the satisfaction of the principal officers of the customs or the chief magistrate of the port or place from whence such vessel or boat shall sail, by bond taken by such officer or magistrate, to the King, his heirs or successors, with sufficient sureties in the penalty of two hundred pounds, with condition, that if such vessel or boat shall not go to or touch at any country port or place, to be mentioned for that purpose in such proclamation, and if neither the master or other person having charge of such vessel or boat, nor any mariner or passenger in such vessel or boat, shall, during the time aforesaid, go on board any other vessel at sea, and such master or other person having charge of such vessel or boat shall not permit or suffer any person or persons to come on board such vessel or boat at sea, from any other vessel, and shall not during the time aforesaid, receive any goods or merchandize whatsoever out of any other vessel, then such bond shall be void; for the making of which bond no fee or reward whatsoever shall be taken; and in case any vessel or boat for which such security shall be required by such proclamation, shall set sail or pass out of any port or place of the United Kingdom, or the islands of *Guernsey*, *Jersey*, *Alderney*, *Sark*, or *Man*, or any of them respectively, before security be given as aforesaid, every such vessel or boat so sailing or passing out of any port or place contrary to the true intent and meaning of this Act, together with her tackle apparel and furniture shall be forfeited to his Majesty, his heirs and successors, and the master of, and every mariner sailing in such vessel or boat, shall severally forfeit and pay the sum of two hundred pounds.

Penalty for sailing without giving such Security, Forfeiture of Vessels, &c.

XXVIII. And be it further enacted, That the consuls and vice consuls of his Majesty, his heirs and successors, shall and are hereby empowered to administer oaths in all cases respecting quarantine, in like manner as if they were magistrates of the several towns or places where they respectively reside.

Power to Consuls, &c. to administer Oaths.

XXIX. And be it further enacted, That in all cases wherein by virtue of this Act, or any other Act hereafter to be made touching quarantine, any examination or answer shall be taken or made upon oath, the person who shall be authorized and required to take such examinations and answers, shall and may be deemed to have full power and authority to administer such oaths; and if any person who shall be interrogated or examined, shall wilfully swear falsely to any matter concerning which such person shall depose or make oath on such examination, or in such answer, or if any person shall procure any other person so to do, he or she so swearing falsely, or procuring any other person so to do, shall be deemed to have been guilty of, and shall be liable to be prosecuted for perjury, or subornation of perjury, as the case may be, and shall suffer the pains penalties and punishments of the law in such case respectively made and provided.

Persons authorized to take Examinations may administer Oaths, and Persons swearing falsely or procuring others so to do shall be deemed guilty of Perjury.

XXX. And be it further enacted, That all superintendants of quarantine at the several ports, and their assistants, shall and may be appointed by any instrument signed by the commissioners of customs for the time being; and every thing required to be done and performed by the superintendant of quarantine, or his assistant, may, in case of the absence or sickness of such superintendant or assistant be done and performed by such principal officer of the customs as shall be authorized to act in that behalf.

Superintendants at Ports to be appointed.

Principal Officer of the Customs to act as Superintendant of Quarantine in case of Absence, &c.

XXXI. And be it further enacted, That the publication in the *London Gazette* of any order in council, or of any order by any two or more of the lords or others of his Majesty's privy council, made in pursuance of this Act, or his Majesty's royal proclamation made in pursuance of the same, shall be deemed and taken to be sufficient notice to all persons concerned of all matters therein respectively contained.

Publication in the London Gazette of Orders of Council, &c. sufficient Notice.

XXXII. And be it further enacted, That all forfeitures and penalties that shall be incurred by reason of any offence committed against this Act shall and may be recovered by suit in any of his Majesty's Courts of Record in *England* or *Ireland*, in which no essoign or wager of law or more than one imparlance shall be granted; or in *Scotland*, by summary action in the court of session, or by prosecution before the Court of Justi-

Recovery and Application of Penalties.

No. III. 6 Geo. IV. c. 78.

ciary there, or by suit in any of his Majesty's courts in the islands of *Guernsey*, *Jersey*, *Alderney*, *Sark* or *Man*, and every such forfeiture and penalty shall belong and be given, two thirds to the person who shall inform and sue for the same, and the remainder to his Majesty, his heirs and successors.

In whose Name Actions for Penalties in England, Ireland, or Scotland, must be prosecuted.

XXXIII. Provided always, and be it further enacted, That it shall not be lawful for any person or persons whatsoever to commence, prosecute, enter, or file, or cause or procure to be commenced, prosecuted, entered, or filed, any action, bill, plaint, information, or prosecution, or actions, bills, plaints, informations, or prosecutions, in any of his Majesty's courts in *England Ireland* or *Scotland*, or any proceeding or proceedings before any justice of the peace of any county, riding, division, city, town, stewartry, or place for the recovery of any fine penalty or forfeiture, fines penalties or forfeitures incurred by reason of any offence committed against this Act, or against any order or orders made by his Majesty, his heirs or successors in council, or by two or more of the lords or others of his Majesty's privy council as aforesaid, unless the same be commenced, prosecuted, entered, or filed in the names of his Majesty's attorney general in *England* or *Ireland*, or advocate in *Scotland* respectively, or under the direction of the commissioners of the customs, and in the name or names of some officer or officers of the customs in *England Ireland* or *Scotland* respectively; and if any action, bill, plaint, information, or prosecution, actions, bills, plaints, informations, or prosecutions, or any proceeding or proceedings before any justice as aforesaid, shall be commenced, prosecuted, entered and filed in the name or names of any other person or persons than is in that behalf before mentioned, the same shall be and are hereby declared to be null and void.

In Prosecutions by Officers of the Customs the Attorney General in England, or Ireland, or Advocate in Scotland, may stop Proceedings.

XXXIV. Provided also, and be it further enacted, That in case any prosecution, suit, complaint, or other proceeding as aforesaid, shall be commenced or depending by any officer or officers of the customs, for the recovery of any fine penalty or forfeiture, fines penalties or forfeitures, incurred by reason of any offence committed against this Act, or against any order or orders made by his Majesty, his heirs or successors, in council, or by any two or more of the lords or others of his Majesty's privy council as aforesaid, it shall and may be lawful for his Majesty's attorney general in *England* or *Ireland*, or advocate in *Scotland* respectively, to stop all further proceedings therein, as well with respect to the share of such fine penalty or forfeiture fines penalties or forfeitures, to which any such officer or officers shall or may claim to be entitled, as to the share thereof belonging to his Majesty, if upon consideration of the circumstances under which any such fine penalty or forfeiture, fines penalties or forfeitures may be incurred, it shall appear to them respectively to be fit and proper so to do.

Offences not being Felony and Offences for which no specific Penalty is provided, may be determined before Three Justices, who may fine or imprison.

Application of Penalties.

XXXV. And be it further enacted, That all offences committed against any of the provisions of this Act, for which no specific penalty forfeiture or punishment is provided by this Act, shall and may be tried heard and determined before any three justices of the peace of the county, riding, division, city, or place, where such offence or disobedience shall happen; and if any person shall be convicted of any such offence or disobedience, he or she shall be liable to such forfeiture and penalty not exceeding the sum of five hundred pounds for any offence, or to such imprisonment, not exceeding twelve months for any one offence, as shall in the discretion of the three justices who shall have heard and determined the same, be judged proper; and such forfeiture and penalty shall be paid, two-thirds to the person suing for the same and the remainder to his Majesty, to be applied as the proceeds of other forfeitures and penalties are herein-before directed to be applied.

XXXVI. And be it further enacted, That in any prosecution suit or other proceedings against any person or persons whatsoever, for any of-

Answers of Persons having the Charge of Vessels shall be received as Evidence so far as relates to the Places from which Vessels came, or at which they touched, and the having been directed to perform Quarantine shall be received as Evidence that Vessels were liable unless Proof be made to the contrary, and the being performing Quarantine shall be Proof of Vessels being liable to perform it.

fence against this Act, or any Act which may hereafter be passed concerning quarantine, or for any breach or disobedience of any order or orders which shall be made by his Majesty, his heirs or successors, with the advice of his privy council, concerning quarantine and the prevention of infection, and notified or published as aforesaid, or of any order or orders made by two or more of the lords or others of the privy council aforesaid, the answer or answers of the commander master or other person having charge of any vessel, to any question or interrogatories put to him by virtue and in pursuance of this Act, or of any Act which may hereafter be passed concerning quarantine, or of any such order or orders as aforesaid, may and shall be given and received as evidence, so far as the same relates or relate to the place from which such vessel shall come, or to the place or places at which such vessel touched in the course of the voyage, and where any vessel shall have been directed to perform quarantine by the superintendant of quarantine or his assistant, or where there is no such superintendant or assistant, by the principal officer of the customs at any port or place, or other officer of the customs authorized to act in that behalf, they having been so directed to perform quarantine, may and shall be given and received as evidence that such vessel was liable to quarantine, unless satisfactory proof shall be produced by the defendant in any such prosecution suit or other proceeding, to show that the vessel did not come from or touch at any such place or places as is or are stated in the said answer or answers, or that such vessel, although directed to perform quarantine, was not liable to the performance thereof; and where any such vessel shall have in fact been put under quarantine at any port or place by the superintendant of quarantine or his assistant, or other officer of the customs authorized as aforesaid to act in that behalf, and shall actually be performing the same, such vessel shall in any prosecution suit or other proceeding, against any person or persons whatever, for any offence against this Act or any other Act which may hereafter be passed concerning quarantine and the prevention of infection, or any order or orders which shall be made by his Majesty in council, or any two or more of the lords or others of his privy council as aforesaid, be deemed and taken to be liable to quarantine, without proving in what manner or from what circumstance such vessel became liable to the performance thereof.

General Issue.

XXXVII. And be it further enacted, That if any action or suit shall be commenced against any person or persons for any thing done in pursuance or execution of this present Act, or of any order of council made by virtue thereof, the defendant or defendants in such action or suit may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and in execution of the said Act; and if it shall appear so to have been done, then the jury shall find for the defendant or defendants; and if the plaintiff shall be nonsuited, or discontinue his action after the defendant or defendants shall have appeared, or if judgment shall have been given upon any verdict or demurrer against the plaintiff, the defendant or defendants shall and may recover treble costs, and have the like remedy for the same as the defendant or defendants hath or have in other cases by law; and that no such action or suit shall be brought against any person for any matter or thing done in pursuance or execution of this Act, but within the space of six months after such matter or thing shall have been done.

Treble Costs.

Limitation of Actions.

PART V.—CLASS XVI.

FELONY RELATING TO THE SLAVE TRADE.

[No. I.] 51 George III. c. 23.—An Act for rendering more effectual an Act made in the forty-seventh Year of his Majesty's Reign, intituled, *An Act for the Abolition of the Slave Trade.*—[14th *May*, 1811.]

No. I.
51 Geo. III. c. 23.
47 G. 3. sess. 1. c. 36.

'WHEREAS the two houses of Parliament did, by their resolutions of the tenth and twenty-fourth days of *June* one thousand eight hundred and six, severally resolve, That the *African* slave trade being contrary to the principles of justice, humanity and sound policy, they would, with all practicable expedition, take effectual measures for the abolition of the same: And whereas, in conformity with the said resolutions, and for all and each of the reasons therein stated, the said trade was by an Act passed in the forty-seventh year of his present Majesty, declared to be unlawful: And whereas it hath been found that divers persons, not deterred by the provisions and penalties of the said Act, do still continue to deal and trade in slaves upon the coast of *Africa* and elsewhere, and to carry them for sale by sea: And whereas the Commons House of Parliament, by its resolution of the fifteenth of *June* one thousand eight hundred and ten, did express its indignation at such practices, and did resolve speedily to take into consideration such measures as might tend effectually to prevent such daring violations of the law: And whereas it is fit that such measures should be extended also to the effectual abolition of the slave trade wheresoever it may be attempted to practise it;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any subject or subjects of his Majesty, or if any person or persons residing or being within this united kingdom, or in any of the islands, colonies, dominions, forts, settlements, factories or territories now or hereafter belonging thereto, or being in his Majesty's occupation or possession, or under the government of the united company of merchants trading to the *East Indies*, shall, from and after the first day of *June* next, by him or themselves, or by his or their factors or agents, or otherwise howsoever, carry away or remove, or aid or assist in the carrying away or removing, as a slave or slaves, or for the purpose of being sold, transferred, used or dealt with as a slave or slaves, any person or persons whatsoever, from any part of *Africa*, or from any other country, territory or place whatsoever, either immediately or by transshipment at sea or otherwise, directly or indirectly; or shall import or bring, or aid or assist in the importing or bringing into any island, colony, country, territory or place whatsoever, any such person or persons as aforesaid, for the purpose aforesaid; or shall knowingly and wilfully ship, embark, receive, detain or confine on board any ship, vessel or boat, any such person or persons as aforesaid, for the purpose of his, her or their being so carried away or removed, imported or brought as aforesaid, or of being

Carrying on the slave trade, or any way engaged therein, declared felony.

No. I. 51 Geo. III. c. 23.

sold, transferred, used or dealt with as a slave or slaves; or shall knowingly and wilfully use or employ, or permit to be used or employed, or let or take to freight or on hire any ship or vessel to be used or employed in carrying away or removing, importing or bringing, or for the purpose of carrying away or removing, importing or bringing as aforesaid, any such person or persons, as a slave or slaves, or for the purpose of his, her or their being sold, transferred, used or dealt with as a slave or slaves; or shall fit out or cause to be fitted out, or shall take the charge or command of, or navigate, or enter and embark on board any such ship or vessel, as master or captain, mate, supercargo or surgeon, knowing that such ship or vessel is actually employed, or is, in the same voyage for which he or they shall so enter and embark on board, intended to be employed in carrying or removing, importing or bringing as aforesaid any such person or persons, as or for the purpose of his, her or their being sold, transferred, used or dealt with as a slave or slaves; then and in every such case, the person or persons so offending, and their counsellors, aiders and abettors, shall be and are hereby declared to be felons, and shall be transported beyond seas for a term not exceeding fourteen years, or shall be confined and kept to hard labour for a term not exceeding five years, nor less than three years, at the discretion of the Court before whom such offender or offenders shall be tried and convicted.

Punishment.

Serving on board ship, or underwriting policy thereon.

II. Provided always, and be it further enacted by the authority aforesaid, That if any person or persons shall, from and after the first day of *May* next, enter or navigate, or embark on board any such ship or vessel used and employed, or meant and intended to be used and employed as aforesaid, as a petty officer, servant or seaman, or petty officers, servants or seamen, knowing that such is or shall be the purpose or one of the purposes of the voyage, or if any person or persons shall underwrite, or procure to be underwritten, any policy of assurance upon any ship or vessel, or goods, or the freight of any ship or vessel employed or intended to be employed in any such voyage, knowing that such is or shall be the purpose or one of the purposes of the said voyage, he or they nevertheless shall not be deemed guilty of a felony within the meaning of this Act, but shall be and they are hereby declared to be guilty of a misdemeanor only, and shall be punished by imprisonment for a term not exceeding two years.

Punishment.

Accessaries.

III. And it is hereby further enacted and declared, That such person shall not be deemed to be nor shall be punished as accessaries to felony; any thing in this present Act to the contrary thereof notwithstanding.

Proviso for removing slaves from one British settlement to another, &c.

IV. Provided always, and be it further enacted by the authority aforesaid, That nothing in this Act contained shall extend, or be construed to extend, to subject any person or persons to the pains and penalties hereby imposed for exporting, removing or carrying from any present or future *British* island, colony or settlement in the *West Indies*, to any other present or future *British* island, colony or settlement in the *West Indies*, or from one part of such *British* island, colony or settlement in the *West Indies*, to any other part of the same island, colony or settlement, or for importing or transporting into or landing in any such island, colony or settlement, any slave or slaves, which have been or shall be born within such islands, colonies or settlements, or any slave or slaves which shall have been or may be lawfully imported or brought into the said islands, colonies or settlements, or for removing or carrying any slave or slaves from one part of any foreign island, colony or settlement, to another part of the same foreign island, colony or settlement, or for trans-shipping and assisting at sea any slave or slaves which shall be in any ship or vessel in distress: Provided also, that nothing in this Act contained shall extend to prevent the transportation to any foreign colony or place, of any slave or slaves that shall have been convicted by due course of law in any present or future *British* island or colony, of any crime to which the punishment of transportation is or shall be annexed by the law of such island or colony, but in every such case a copy of the judgment or sentence certified by the Court before which the offender was convicted, shall be put on board in the ship or vessel in which any such convict shall be transported.

And for the transportation to foreign places of slaves that have been convicted of crimes.

V. Provided also, and be it further enacted, That nothing hereinbefore contained shall extend, or be construed to extend, to subject any person or persons to the pains and penalties hereby imposed for any thing done or to be done in *Africa*, west of the *Cape of Good Hope*, or in the *West Indies* or *America* to the east of *Cape Horn*, on or before the first day of *September* next; nor for any thing done or to be done in the *East Indies*, the island of *Madagascar*, the ports and places of *Africa* to the east of the *Cape of Good Hope*, the islands of *Mauritius* and *Bourbon*, and the islands in the *East Indian* seas, on or before the first day of *January* next; nor for any thing done or to be done in *New Holland*, the islands in the *South Seas*, or the coast of *America* to the west of *Cape Horn*, on or before the first day of *May*, in the year one thousand eight hundred and twelve; nor for any thing done or to be done in the high seas, on board of any ship or vessel which hath or shall have sailed last from any port in *Great Britain* or *Ireland* on or before the first day of *June* next, or from any other port or place in *Europe*, on or before the first day of *July* next; or from any port or place in *Africa* west of the *Cape of Good Hope*, or the *West Indies*, or *America* to the east of *Cape Horn*, on or before the first day of *August* next; or from any port or place in the *East Indies*, *Madagascar*, the islands of *Mauritius* and *Bourbon*, the coast of *Africa* to the east of the *Cape of Good Hope*, and the islands in the *East Indian* seas, on or before the first day of *January* next; or from any port or place in *New Holland*, the islands in the *South Seas*, or the coast of *America* to the west of *Cape Horn*, on or before the first day of *May* in the year one thousand eight hundred and twelve.

Pr
things done before certain periods.

VI. And be it further enacted and declared, That all offences hereinbefore declared to be felonies or misdemeanors, which shall be committed in *Africa*, or in any country, territory or place, other than this united kingdom, or on the high seas, or in any port, sea, creek, or place, where the admiral has jurisdiction, shall and may be enquired of either according to the ordinary course of law, and the provisions of an Act passed in the twenty-eighth year of the reign of King *Henry* the Eighth, intituled, *An Act for Pirates*, or according to the provisions of an Act passed in the thirty-third year of the reign of King *Henry* the Eighth, intituled, *An Act to proceed, by Commission of* Oyer *and* Terminer, *against such persons as shall confess treason and felony, without remanding the same to be tried in the shire where the offence was committed*, so far as the same Act is now unrepealed; or according to the provisions of an Act passed in the eleventh and twelfth years of the reign of his late Majesty King *William* the Third, intituled, *An Act passed for the more effectual Suppression of Piracy*.

How offences to be tried.

28 H. 8. c. 15.

33 H. 8. c. 23.

11 & 12 W. 3. c. 7.

VII. Provided always, and it is hereby further enacted and declared, That nothing herein contained shall be construed to repeal, annul or alter the said Act of the forty-seventh year of his present Majesty, or an Act made in the forty-sixth year of his present Majesty, for preventing the importation of slaves by any of his Majesty's subjects, into any islands, colonies, plantations or territories belonging to any foreign state or power, in respect of any forfeitures of ships or vessels, cargoes, goods or effects, thereby respectively imposed for any offence against the said Acts, or either of them, or the remedies thereby given for the recovery thereof, or in respect of any pecuniary penalties thereby imposed; but that the said Acts shall, in all other respects be deemed and taken to be in full force, except so far as the said Act of the forty-sixth year of his present Majesty is altered or extended by the said Act of the forty-seventh year of his said Majesty.

Former Acts in respect of forfeitures.
46 G. 3. c. 52.
47 G. 3. sess. 1. c. 36.

46 G. 3. c. 52 § 18.

VIII. 'And whereas it is in and by the said Acts respectively enacted, 'that all ships or vessels, slaves or natives of *Africa*, carried, conveyed or 'dealt with as slaves, and all other goods and effects that shall or may be-'come forfeited for any offence committed against the said Acts respec-'tively, shall and may be seized by any officer of his Majesty's customs or 'excise, or by the commanders or officers of any of his Majesty's ships or 'vessels of war: And whereas ships and vessels, slaves, goods and effects, 'liable to seizure and forfeiture under the said Acts, for offences commit-'ted on the coast of *Africa*, may be safely navigated, carried or kept upon 'or near to the said coast, or in the ports, havens or rivers thereof, in con-

47 G. 3. sess. 1. c. 36. § 14.

No. I.
51 Geo. III.
c. 23.

'tempt of the said Acts, by reason of the want of officers of the customs or 'excise, or of his Majesty's ships or vessels of war stationed on the said 'coast, or on such parts thereof as may be visited by such offenders;' Be it therefore further enacted by the authority aforesaid, That it shall and may be lawful for all governors or persons having the chief command, civil or military, of any of the colonies, settlements, forts or factories belonging to his Majesty, or to the *African* company in *Africa*, or any *African* island, and for all persons deputed and authorized by any such governor or commander in chief, to seize and prosecute all ships and vessels, slaves or natives of *Africa*, carried, conveyed or dealt with as slaves, and all goods and effects whatsoever, that shall or may become forfeited for any offence committed against the said Acts of Parliament, or either of them, and which shall be found upon, or near to, the said coast, or in any port, haven or river thereof, or within the limits of any of the said colonies, settlements, forts or factories, which governor or commander in chief, and all persons by them so deputed and authorized, shall, in making and prosecuting any such seizures, have the benefit of all the provisions made by the said Acts of Parliament, or by an Act of the fourth year of his present Majesty therein recited, or by any other Act of Parliament for the protection of officers seizing and prosecuting for any offence against the said last mentioned Act, or any other Act of Parliament relating to the trade and revenues of the *British* colonies or plantations in *America*.

Governors and commanders in chief, and persons authorized by them, may seize vessels and other forfeitures.

4 G. 3. c. 15.

Persons sailing in vessels giving information of offences committed not liable to punishment.

IX. Provided also, and be it further enacted by the authority aforesaid, That if any person or persons, sailing or being in the capacity of a petty officer, or petty officers, servant or servants, seaman or seamen, on board of any ship or vessel fitted out for or engaged in the unlawfully carrying, removing, trading or dealing in slaves, shall, within three months after the arrival of the said vessel at any port belonging to his Majesty, give information on oath, before any competent magistrate, against any owner or part owner, or any captain, mate, surgeon or supercargo of such ship or vessel, who shall have committed any offence against this Act, and shall give evidence on oath against such owner or part owner, captain, mate, surgeon and supercargo, before any magistrate or court before whom such offender may be tried; or if such person or persons so sailing as aforesaid, in the capacity of a petty officer or petty officers, mariner or mariners, servant or servants, shall, within three months after his or their arrival at any port or place not within his Majesty's dominions, give information to any of his Majesty's ambassadors, ministers plenipotentiary, envoys, charges d'affaires, consuls, residents or other agents, so that any person or persons owning such ship or vessel, or navigating or taking charge of the same, as captain, mate, surgeon or supercargo, may be apprehended, such person or persons so giving such information and evidence, shall not be liable to any of the pains or penalties of this Act, or any fine or other punishment under the said Acts of the forty-sixth and forty-seventh years of his present Majesty, or either of them; but shall be wholly discharged therefrom, and his Majesty's ambassadors, ministers plenipotentiary, envoys, charges d'affaires, consuls, residents or other agents, are hereby required to receive any such information as aforesaid, and to transmit the particulars thereof, without delay, to one of his Majesty's principal secretaries of state, and to transmit copies of the same to the commanders of his Majesty's ships or vessels then being in the said port or place.

46 G. 3. c. 52.
47 G. 3. sess. 1. c. 86.

[No. II.] 5 George 4. c. 113.—An Act to amend and consolidate the Laws relating to the Abolition of the Slave Trade.—[24th *June* 1824.]

No. II.
5 Geo. IV.
c. 113.

WHEREAS it is expedient that the various Acts and enactments relating to slavery and the slave trade should be consolidated and amended; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of *January* in the year of our Lord one thousand eight hundred and twenty-five, all the Acts and enactments relating to the slave trade and the abolition thereof, and the exportation and importation of slaves, shall be and the same are hereby repealed, save and except in so far as they may have repealed any prior Acts or enactments, or may have been acted upon, or may be expressly confirmed by this present Act.

All Acts relating to the Slave Trade, and the Exportation and Importation of Slaves repealed.

II. And be it further enacted, That it shall not be lawful (except in such special cases as are herein-after mentioned) for any persons to deal or trade in, purchase, sell, barter, or transfer, or to contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves; or to carry away or remove or to contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves; or to import or bring, or to contract for the importing or bringing into any place whatsoever, slaves or other persons, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship vessel or boat, slaves or other persons for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship vessel or boat, slaves or other persons, for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves; or to fit out, man, navigate, equip, dispatch, use, employ, let, or take to freight or on hire, or to contract for the fitting out, manning, navigating, equipping, dispatching, using, employing, letting, or taking to freight or on hire, any ship vessel or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to lend or advance, or become security for the loan or advance, or to contract for the lending or advancing, or becoming security for the loan or advance of money goods or effects, employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to become guarantee or security, or to contract for the becoming guarantee or security for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or in any other manner to engage or to contract to engage directly or indirectly therein as a partner agent or otherwise; or to ship, tranship, lade, receive, or put on board, or to contract for the shipping, transhipping, lading, receiving, or putting on board of any ship vessel or boat, money goods or effects, to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to take the charge or command, or to navigate or enter and embark on board, or to contract for the taking the charge or command, for the navigating or entering and embarking on board of any ship vessel or boat as captain, master, mate, petty officer, surgeon, supercargo, seaman, marine, or servant, or in any other capacity, knowing that such ship vessel or boat is actually employed, or is in the same voyage, or upon

The Purchase, Sale, or Contract for Slaves declared unlawful; as also the Exportation and Importation of Slaves;

the Shipping of Slaves in order to Exportation or Importation;

the fitting out Vessels;

making Loans or Guarantees;

the Shipping of Goods, &c.

or serving on board Ships employed for any of the aforesaid Purposes;

No. II. 5 Geo. IV. c. 113.

the same occasion, in respect of which they shall so take the charge or command or navigate or enter and embark, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to insure or to contract for the insuring of any slaves, or any property, or other subject matter, engaged or employed, or intended to be engaged or employed, in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful.

or the insuring of Slave Adventures.

Penalty for dealing in Slaves, or exporting or importing them, &c.;

III. And be it further enacted, That (except in such special cases as are in and by this Act permitted) if any persons shall deal or trade in, purchase, sell, barter, or transfer, or contract for the dealing or trading in, purchase sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves, or shall carry away or remove or contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves, or shall import or bring or contract for the importing or bringing into any place whatsoever slaves or other persons, as or in order to their being dealt with as slaves, or shall ship, tranship, embark, receive, detain, or confine on board or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship vessel or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship vessel or boat slaves or other persons, for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves, then and in every such case the person so offending, and their procurers, counsellors, aiders and abettors, shall forfeit and pay for every such offence the sum of one hundred pounds of lawful money of *Great Britain* for each and every slave so dealt or traded in, purchased, sold, bartered, or transferred, carried away, removed, imported, brought, shipped, transhipped, embarked, received, detained, or confined on board, or so contracted for as aforesaid; the one moiety thereof to the use of his Majesty, his heirs and successors, and the other moiety to the use of any person who shall inform sue and prosecute for the same; and all property or pretended property in such slaves or persons as aforesaid shall also be forfeited and the said slaves or persons shall and may be seized and prosecuted as herein-after is mentioned and provided.

or shipping Slaves for the Purpose of Exportation or Importation.

Penalty for fitting out Slave Ships.

IV. And be it further enacted, That (except in such special cases or for such special purposes as are in and by this Act permitted) if any persons shall fit out, man, navigate, equip, dispatch, use, employ, let or take to freight or on hire, or contract for the fitting out, manning, navigating, equipping, dispatching, using, employing, letting or taking to freight or on hire, any ship vessel or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, such ship vessel or boat, together with all her boats, guns, tackle, apparel, and furniture, and together likewise with all property goods or effects found on board, belonging to the owner or owners, part owner or part owners of any such ship vessel or boat, shall become forfeited, and may and shall be seized and prosecuted as herein-after is mentioned and provided.

Penalty for embarking Capital in the Slave Trade.

V. And be it further enacted, That (except in such special cases or for such special purposes as are in and by this Act permitted) if any persons shall knowingly and wilfully lend or advance, or become security for the loan or advance, or shall contract for the lending or advancing, or becoming security for the loan or advance of money goods or effects, employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, then and in every such case the persons so offending, and their procurers, counsellors, aiders and abettors, shall forfeit and pay for every such offence double the value of all the money goods and effects so lent advanced or secured, or so contracted for as

aforesaid, to be recovered and applied as is herein-after mentioned and provided.

VI. And be it further enacted, That (except in such special cases or for such special purposes as are in and by this Act permitted) if any persons shall knowingly and wilfully become guarantee or security, or contract for the becoming guarantee or security for agents employed, or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or shall in any other manner engage or contract to engage directly or indirectly therein, as a partner agent or otherwise, then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money goods and effects so by them secured or contracted so to be as aforesaid, to be recovered and applied as is herein-after mentioned and provided.

Penalty for guaranteeing Slave Adventures.

VII. And be it further enacted, That (except in such special cases or for such special purposes as are in and by this Act permitted), if any person shall knowingly and wilfully ship, tranship, lade, receive, or put on board, or contract for the shipping, transhipping, lading, receiving or putting on board of any ship vessel or boat, any money goods or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money goods and effects so shipped, transhipped, laden, received, or put on board, or contracted so to be as aforesaid, to be recovered and applied as is herein-after mentioned and provided.

Penalty for Shipping Goods to be employed in the Slave Trade.

VIII. And be it further enacted, That (except in such special cases or for such special purposes as are in and by this Act permitted) if any person shall knowingly and wilfully insure or contract for the insuring of any slaves, or any property or other subject matter engaged or employed or intended to be engaged or employed in accomplishing any of the objects or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful then and in every such case the person so offending, and their procurers, counsellors, aiders and abettors, shall forfeit and pay for every such offence the sum of one hundred pounds of lawful money of *Great Britain* for every such insurance or contract for the same, and also treble the amount of the premium of any such insurance or contract for the same, the one moiety thereof to the use of his Majesty, his heirs and successors, and the other moiety to the use of any person who shall inform sue and prosecute for the same, and every such insurance shall be absolutely null and void.

Penalty for insuring Slave Adventures.

IX. And be it further enacted, That if any subject or subjects of his Majesty, or any person or persons residing or being within any of the dominions, forts, settlements, factories, or territories, now or hereafter belonging to his Majesty, or being in his Majesty's occupation or possession, or under the government of the United Company of Merchants of *England* trading to the *East Indies*, shall, except in such cases as are in and by this Act permitted, after the first day of *January* one thousand eight hundred and twenty-five, upon the high seas, or in any haven, river, creek, or place where the admiral has jurisdiction, knowingly and wilfully carry away convey or remove, or aid or assist in carrying away, conveying or removing, any person or persons as a slave or slaves, or for the purpose of his her or their being imported or brought as a slave or slaves, into any island, colony, country, territory, or place whatsoever, or for the purpose of his her or their being sold, transferred, used, or dealt with as a slave or slaves, or shall after the said first day of *January* one thousand eight hundred and twenty-five, except in such cases as are in and by this Act permitted, upon the high seas, or within the jurisdiction aforesaid, knowingly and wilfully ship, embark, receive, detain, or confine, or assist in shipping, embarking, receiving, detaining, or confining on board any

Dealing in Slaves on the High Seas, &c. to be deemed Piracy.

No. II. 5 Geo. IV. c. 113.

ship vessel or boat, any person or persons for the purpose of his her or their being carried away conveyed or removed as a slave or slaves, or for the purpose of his her or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his her or their being sold, transferred, used, or dealt with as a slave or slaves, then and in every such case the person or persons so offending shall be deemed and adjudged guilty of piracy felony and robbery, and being convicted thereof, shall suffer death without benefit of clergy, and loss of lands goods and chattels, as pirates felons and robbers, upon the seas ought to suffer.

Persons dealing in Slaves, or exporting or importing Slaves;

X. And be it further enacted, That (except in such special cases as are in and by this Act permitted or otherwise provided for) if any persons shall deal or trade in, purchase, sell, barter, or transfer, or contract for the dealing or trading in, purchase, sale, barter or transfer of slaves, or persons intended to be dealt with as slaves, or shall, otherwise than as aforesaid, carry away or remove, or contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves; or shall import or bring, or contract for the importing or bringing into any place whatsoever, slaves or other persons, as or in order to their being dealt with as slaves; or shall, otherwise than as aforesaid, ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship vessel or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship vessel or boat, slaves or other persons, for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves; or shall fit out, man, navigate, equip, dispatch, use, employ, let or take to freight or on hire, or contract for the fitting out, manning, navigating, equipping, dispatching, using, employing, letting, or taking to freight or on hire, any ship vessel or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall knowingly and wilfully lend or advance, or become security for the loan or advance, or contract for the lending or advancing, or becoming security for the loan or advance of money goods or effects, employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall knowingly and wilfully become guarantee or security, or contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or in any other manner to engage, or to contract to engage, directly or indirectly, therein as a partner agent or otherwise; or shall knowingly and wilfully ship, tranship, lade, receive, or put on board, or contract for the shipping, transhipping, lading, receiving, or putting on board of any ship vessel or boat, money goods or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall take the charge or command, or navigate, or enter and embark on board, or contract for the taking the charge or command, or for the navigating or entering and embarking on board of any ship vessel or boat, as a captain, master, mate, surgeon, or super-cargo, knowing that such ship vessel or boat is actually employed, or is in the same voyage, or upon the same occasion, in respect of which they shall so take the charge or command, or navigate or enter and embark, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall knowingly and wilfully insure, or contract for the insuring of any slaves, or any property

or shipping Slaves in order to Exportation or Importation;

or fitting out Slave Ships;

or embarking Capital in the Slave Trade;

or guaranteeing Slave Adventurers;

or shipping Goods, &c., to be employed in the Slave Trade;

or serving on board Slave Ships as Captain, Master, &c., Surgeon, &c.;

or insuring Slave Adventures;

or other subject matter engaged or employed in the accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall wilfully and fraudulently forge or counterfeit any certificate, certificate of valuation sentence or decree of condemnation of restitution, copy of sentence or decree of condemnation or restitution, or any receipt (such receipts being required by this Act), or any part of such certificate, certificate of valuation, sentence or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or receipt as aforesaid; or shall knowingly and wilfully utter or publish the same, knowing it to be forged or counterfeited, with intent to defraud his Majesty, his heirs or successors, or any other person or persons whatsoever, or any body politic or corporate; then and in every such case the person or persons so offending, and their procurers, counsellors, aiders, and abettors, shall be and are hereby declared to be felons, and shall be transported beyond the seas for a term not exceeding fourteen years, or shall be confined and kept to hard labour for a term not exceeding five years, nor less than three years, at the discretion of the court before whom such offender or offenders shall be tried and convicted.

or forging Instruments relating to the Slave Laws.

declared guilty of Felony, &c.

XI. And be it further enacted, That (except in such special cases, or for such special purposes as are in and by this Act, expressly permitted) if any persons shall enter and embark on board, or contract for the entering and embarking on board of any ship vessel or boat, as petty officer, seaman, marine, or servant, or in any other capacity not herein-before specifically mentioned, knowing that such ship vessel or boat is actually employed, or is in the same voyage, or upon the same occasion, in respect of which they shall so enter and embark on board, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall be and they are hereby declared to be guilty of a misdemeanor only, and shall be punished by imprisonment for a term not exceeding two years.

Seamen, &c. serving on board such Ships guilty of Misdemeanor.

XII. Provided always, and it is hereby further enacted and declared, That nothing in this Act contained, making piracies, felonies, robberies, and misdemeanors of the several offences aforesaid, shall be construed to repeal annul or alter the provisions and enactments in this Act also contained, imposing forfeitures and penalties or either of them upon the same offences, or to repeal annul or alter the remedies given for the recovery thereof; but that the said provisions and enactments imposing forfeitures and penalties shall in all respects be deemed and taken to be in full force, it being the true intent and meaning of this Act, that the right and privilege heretofore exercised of suing in Vice Admiralty Courts for the forfeitures or penalties, shall remain in full force and effect as before the passing of this Act; and the jurisdiction of the said Vice Admiralty Courts in all cases of forfeitures and penalties imposed by this Act is hereby established, given, ratified, and confirmed.

Saving the Option to sue for Penalties in the Vice Admiralty Courts.

XIII. Provided always, and be it further enacted, That nothing in this Act contained shall prevent or be construed to prevent any persons from dealing or trading in, purchasing, selling, bartering, or transferring, or from the contracting for the dealing or trading in, purchase, sale, barter, or transfer of any slaves or slave lawfully being within any island, colony, dominion, fort, settlement, factory, or territory belonging to or in the possession of his Majesty, in case such dealing or trading, purchase, sale, barter, transfer, or contract shall be made and entered into with the true intent and purpose of employing or working such slaves or slave within such and the same island, colony, dominion, fort, settlement, factory, or territory, in which they he or she may lawfully be at the time of the making or entering into any such dealing or trading, purchase, sale, barter, transfer, or contract.

Nothing herein shall prevent Persons from purchasing Slaves in any Island, &c. belonging to His Majesty, provided such Slaves shall be employed in the same Island, &c.

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Such Slaves may be removed Coastwise, or by Land, to any other Part of the same Island, &c.

XIV. Provided always, and be it further enacted, That nothing in this Act contained shall prevent or be construed to prevent any person from carrying away or removing by land or coastwise, or from contracting for the carrying away or removing by land or coastwise, of any slaves, lawfully being in any part of any island, colony, dominion, fort, settlement, factory, or territory, belonging to or in the possession of his Majesty, to any other part of the same island, colony, dominion, fort, settlement, factory, or territory: Provided always, that where two or more islands are comprised in the same colonial government, nothing in this Act contained shall prevent or be construed to prevent any proprietor of slaves, lawfully being in any one of such islands, from carrying away or removing such slaves to any other island, within the same government, for the purpose of cultivating any estate or plantation belonging to such proprietor himself, provided that such special purpose of the removal shall previously be made to appear to the satisfaction of the governor or lieutenant governor, or other person having the chief civil command for the time being within such government, who thereupon shall and may grant a licence for such removal, specifying therein the special cause thereof; but before any slave or slaves shall, by virtue of any such licence, be so removed or embarked on board of any ship or vessel for that purpose, such clearances or permits and such certificates shall be obtained as are herein-after mentioned and drected in regard to domestic slaves attending on their owner or master or his family by sea.

Where there are Two or more Islands comprised in the same Colonial Government, Proprietors of Slaves may remove them to any Island within the Government, the Governor granting Licence for that Purpose.

His Majesty in Council may authorize, until July 31, 1827, the Removal of Slaves from any British Island in the West Indies to another British Island there, in case it shall appear that such Removal is essential for the Welfare of the Slaves: And such Stipulations and Conditions shall be established for the Benefit of such Slaves as His Majesty in Council shall think fit. Security to be taken.

XV. Provided also, and be it further enacted, That it shall and may be lawful for his Majesty, his heirs and successors, by any order or orders to be by him or them from time to time issued, with the advice of his or their privy council, to authorize and permit, until the thirty-first day of *July* one thousand eight hundred and twenty-seven, and to the end of the next ensuing session of Parliament, and no longer, the removal of any slaves from any island in the *West Indies* belonging to or in the possession of his Majesty, to any other island in the *West Indies* belonging to or in the possession of his Majesty, in case it shall be made appear to his Majesty, his heirs and successors, and his or their council, that such removal is essential to the welfare of the slaves proposed to be so removed: Provided also, that it shall and may be lawful for his Majesty, his heirs and successors, by any such order or orders as aforesaid, to make and establish such stipulations conditions and regulations for the benefit of such slaves in the island to which they may be so removed, as to his Majesty, his heirs and successors, with the advice of his or their council, may seem meet, and to take security in double the value of the slaves so to be removed (such value to be estimated according to the price of slaves in the island to which such slaves are to be taken) by bond or recongizance to be made and entered into by the person or persons to or on the application of whom such licence may be granted, with at least two sufficient sureties, for the due and faithful observance and performance of all such stipulations conditions and regulations as aforesaid; and all orders in council to be so issued as aforesaid shall be laid before both Houses of Parliament within six weeks next after the commencement of each session.

Convict Slaves may be transported from a British Island to a Foreign Settlement.

XVI. Provided also, and be it further enacted, That nothing in this Act contained shall prevent the transportation to any foreign colony or place of any slave or slaves that shall have been convicted in any Court of Record, by due course of law, in any present or future *British* island or colony, of any crime to which the punishment of transportation is or shall be annexed by the law of such island or colony; but in every such case a copy of the judgment or sentence, certified by the court before which the offender was convicted, shall be put on board in the ship or vessel in which any such convict shall be transported.

Domestic Slaves may accompany their Masters, under the following Regulations.

XVII. Provided also, and be it further enacted, That nothing in this Act contained shall prevent any slave, who shall be really and truly the domestic servant of any person residing or being in any island, colony,

plantation, or territory, belonging to or under the dominion or in the possession of his Majesty, from attending such his owner or master, or any part of his family, by sea, to any place whatever; nevertheless, under the following regulations; (that is to say,) first, the name and occupation of every such domestic slave or slaves shall be inserted in or indorsed upon the clearance or permit to depart of such ship or vessel, by or in the presence of the collector, comptroller, or other chief officer of the customs of the port or place from which such ship or vessel shall clear outwards on any voyage, who shall, without fee or reward, certify under his hand, that the slave or slaves so embarked or carried were reported or described to him as domestic servants; secondly, the master or owner of any such domestic slave or slaves shall obtain from the registry of the colony to which the same shall belong, an extract, certified by the registrar thereof, showing that such domestic slave or slaves has or have been duly entered in the slave registry of the said colony, by their name and description or names and descriptions therein specified, which extract and certificate shall always be on board the ship or vessel in which any such domestic slave or slaves is or are carried; and upon such slave or slaves being brought into or landed in any *British* colony, the extract and certificate of his her or their registration in the colony from which he she or they may have come, shall be forthwith produced to the collector or principal officer of the customs, and a copy thereof shall be by him delivered to the registrar of slaves in the colony into which he she or they may be brought; and if the domestic slave or slaves shall be again removed from the colony into which they may have been so brought, previous to the next period for making returns of slaves therein, the collector shall, previous to the embarkation of such domestic slave or slaves, return to the party requiring it the original extract and certificate of registration delivered into his office to be kept on board the ship or vessel in which such domestic slave or slaves may be carried; and if the regulations herein contained be not complied with, the owners of the said slave or slaves shall forfeit the sum of one hundred pounds for every such slave or slaves so illegally dealt with, and the master or other person having the charge of such ship or vessel shall in every such case forfeit the sum of one hundred pounds for each and every domestic slave so unlawfully taken on board.

Name and Occupation shall be inserted in the Ship's Clearance.

Extract from Slaves' Registry shall be put on board, and produced on Arrival.

Regulations to be observed on Re-embarkation.

Penalties inflicted, if Regulations be not complied with.

XVIII. Provided also, and be it further enacted, That nothing in this Act contained shall prevent any slave or slaves from being employed in navigation, in numbers not exceeding in any one vessel or boat those usually employed in navigating such vessels or boats; nevertheless where he or they shall be designedly so employed in navigating from any *British* island, colony, plantation, or territory, the regulations prescribed for the transit of domestic slaves as aforesaid shall be duly observed.

Slaves may be employed in Navigation, under certain Regulations.

XIX. Provided also, and be it further enacted, That nothing in this Act contained shall prevent any slave or slaves from being employed in fishing, or any other his ordinary business or occupation upon the seas; nevertheless, where he or they shall be so employed in the course of a navigation, designedly undertaken from any *British* island, colony, plantation, or territory, the regulations prescribed for the transit of domestic slaves as aforesaid shall be duly observed.

As also in fishing, or other their ordinary Occupations.

XX. Provided also, and be it further enacted, That nothing in this Act contained shall prevent any slave or slaves from being put on board any ship or vessel by the order of his Majesty's commander in chief, either by sea or land, in any island, colony, plantation, or territory belonging to or under the dominion of his Majesty, in order to be employed in his Majesty's military or naval service, and from being by such order so employed, however or wheresoever the said service may require.

Slaves may be employed in the Military and Naval Services.

XXI. Provided also, and be it further enacted, That nothing in this Act contained shall prevent the transhipping and assisting at sea any slave or slaves which shall be in any ship or vessel in distress.

Slaves in Vessels in Distress may be assisted.

XXII. And be it further enacted, That all slaves and all persons treated, dealt with, carried, kept, or detained as slaves which shall be seized or taken as prize of war or liable to forfeiture under this Act, shall

Directing the Manner in which captured Slaves shall be disposed of.

No. II. 5 Geo. IV. c. 113.

and may, for the purposes only of seizure, prosecution, and condemnation as prize or as forfeiture, be considered, treated, taken, and adjudged as slaves and property, in the same manner as negro slaves have been heretofore considered, treated, taken, and adjudged when seized as prize of war, or as forfeited for any offence against the laws of trade and navigation respectively; but the same shall be condemned as prize of war or as forfeited to the sole use of his Majesty, his heirs and successors, for the purpose only of divesting and barring all other property, right, title, or interest whatever, which before existed or might afterwards be set up or claimed in or to such slaves or persons so seized prosecuted or condemned; and the same nevertheless shall in no case be liable to be sold, disposed of, treated, or dealt with as slaves by or on the part of his Majesty, his heirs or successors, or by or on the part of any person or persons claiming or to claim from by or under his Majesty, his heirs and successors, or under or by force of any such sentence or condemnation: Provided always, that it shall be lawful for his Majesty, his heirs and successors, and such officers, civil or military, as shall by any general or special order of the King in council be from time to time appointed to receive protect and provide for such persons as shall be so condemned, either to enter and enlist the same or any of them into his Majesty's land or sea service as soldiers seamen or marines, or to bind the same or any of them, whether of full age or not, as apprentices for any term not exceeding seven years, to such person or persons, in such place or places, and upon such terms and conditions, and subject to such regulations as to his Majesty shall seem meet, and as shall by any general or special order of his Majesty in council be in that behalf directed and appointed; and any indenture of apprenticeship, duly made and executed by any person or persons to be for that purpose appointed by any such order in council for any term not exceeding seven years, shall be of the same force and effect as if the party thereby bound as an apprentice had himself or herself when of full age upon good consideration duly executed the same; and every such person who shall be so enlisted or entered as aforesaid into his Majesty's land or sea forces as a soldier seaman or marine shall be considered treated and dealt with in all respects as if he had voluntarily so enlisted or entered himself.

In case Persons detained in Slavery shall escape, any Officer may provide for and protect them.

XXIII. Provided always, and be it further enacted, That in case any person or persons illegally held or detained in slavery shall hereafter by shipwreck or otherwise be cast upon, or shall escape to or arrive at any island or colony, fort, territory, or place under the dominion or in the possession of his Majesty, it shall and may be lawful for his Majesty, his heirs and successors, or for any such officers civil or military as aforesaid, to deal with protect and provide for any such person or persons, in such and the same manner as is herein-before directed with respect to persons condemned as prize of war, or as forfeited under this Act.

Where Apprentices under the Provisions of the Acts for the Abolition of the Slave Trade, are ill-treated by their Masters, they may apply to the Judge of the Vice Admiralty, who shall summarily decide therein.

XXIV. And be it further enacted, That whenever any person apprenticed under the provisions of any of the Acts for the abolition of the slave trade, shall be ill-treated by the master to whom he is apprenticed or by any other person by his directions, or with his knowledge approbation or consent, it shall and may be lawful for such person so apprenticed and so ill-treated, to apply himself, or by any other person on his behalf, to the judge of the Vice Admiralty Court nearest to which his said master shall be residing; and the said judge shall have authority and is hereby empowered and required to take cognizance of the said complaint, and to summon the said master witnesses and other persons before him, and examine into the same summarily, and decide thereupon; and if the said complaint shall, in the judgment of the said court, be satisfactorily proved, it shall be lawful for the said judge to fine the said master any sum not exceeding one hundred pounds of good and lawful money of *Great Britain*, and to enforce payment thereof by distress and imprisonment; and also, if it shall seem to him meet, to cancel the indentures of apprenticeship; and any fine so enforced shall go to and belong to our sovereign lord the King, his heirs and successors.

Judge may fine the Master any Sum not exceeding 100*l.*, and may cancel the Indenture.

XXV. Provided always, and be it further enacted, That where any slaves or persons treated, dealt with, carried, kept, or detained as slaves taken as prize of war, by any of his Majesty's ships of war or privateers duly commissioned, shall be finally condemned as such to his Majesty's use as aforesaid, there shall be paid to the captors thereof, out of the consolidated fund of the United Kingdom of *Great Britain* and *Ireland*, such bounty as his Majesty, his heirs and successors, shall direct by any order in council, so as the same shall not exceed the sum of twenty pounds lawful money of *Great Britain* for every man woman and child that shall be so taken and condemned, and shall be delivered over to the proper officer or officers, civil or military, appointed to receive protect and provide for the same; which bounties shall be divided amongst the officers, seamen, marines, and soldiers on board his Majesty's ships of war or hired armed ships, in manner form and proportion, as by his Majesty's proclamation for granting the distribution of prizes to be issued for that purpose shall be directed and appointed, and amongst the owners officers and seamen of any private ship or vessel of war, in such manner and proportion as by any agreement in writing which they shall have entered into for that purpose shall be directed.

Captors of Slaves taken as Prize of War to be allowed a Bounty, not exceeding 20*l.* for every Man taken.

XXVI. Provided also, and be it further enacted, That on the condemnation to the use of his Majesty, his heirs and successors, of any slaves or persons treated, dealt with, carried, kept, or detained as slaves seized and prosecuted not as prize of war, but as forfeited for any offence against this Act (when such seizure has been made at sea by the commander or officer of any of his Majesty's ships or vessels of war), there shall be paid to the commander or officer of such ship or vessel of war, who shall so seize inform and prosecute, for every man woman and child so condemned and delivered over, the sum of ten pounds like money, subject nevertheless to such distribution of the said bounties or rewards for the said seizures made at sea, as his Majesty, his heirs and successors, shall think fit and direct by any order in council made for that purpose; and where such seizure shall not have been made at sea by the commander or officer of any of his Majesty's ships or vessels of war, there shall be paid to and to the use of the person who shall have sued informed and prosecuted the same to condemnation, the sum of seven pounds ten shillings lawful money aforesaid, for every man woman and child that shall be so condemned and delivered over, and also the like sums to and to the use of the governor or commander in chief of any colony or plantation wherein such seizure shall be made.

The Governor and Party prosecuting to be allowed a Bounty.

If Seizure made at Sea, 10*l.* per Man, &c.

If not made at Sea, 7*l.* 10*s.* per Man.

XXVII. Provided always, and be it further enacted, That in order to entitle the captors to receive the said bounty money, the numbers of men women and children so taken condemned and delivered over, shall be proved to the commissioners of his Majesty's treasury, by producing a copy duly certified of the sentence and decree of condemnation, and also a certificate under the hand of the said officer or officers, military or civil, so appointed as aforesaid, and to whom the same shall have been delivered, acknowledging that he or they hath or have received the same, to be disposed of according to his Majesty's instructions and regulations as aforesaid.

Mode of obtaining such Bounty.

XXVIII. Provided also, and be it further enacted, That in any cases in which doubts shall arise whether the party or parties claiming such bounty money is or are entitled thereto, the same shall be summarily determined by the judge of the High Court of Admiralty, subject nevertheless to an appeal to the lords commissioners of appeals in prize causes.

Decision of doubtful Claims to be determined by the Judge of Admiralty.

XXIX. Provided always, and be it further enacted, That no appeals shall be prosecuted from any decree or sentence of any Court of Admiralty or Vice Admiralty, touching any of the matters provided for in this Act, unless the inhibition shall be applied for and decreed within twelve months from the time when such decree or sentence was pronounced, except where such decree or sentence shall be passed in any Vice Admiralty Court at the *Cape of Good Hope*, or to the eastward thereof, in which cases eighteen months shall be allowed for the prosecution of the said appeal.

Limitation of Appeal.

No. II. 5 Geo. IV. c. 113.

Saving the Rights of Greenwich Hospital. 57 G. 3. c. 127.

XXX. Provided also, and be it further enacted, That nothing in this Act contained shall be construed to repeal or alter a certain Act passed in the fifty-seventh year of his late Majesty King *George* the Third, intituled "An Act to settle the Share of Prize Money, Droits of Admiralty and "Bounty Money, payable to *Greenwich* Hospital, and for securing to the "said Hospital all unclaimed Shares of Vessels found derelict, and of Seiz-"ures for Breach of the Revenue, Colonial Navigation, and Slave Aboli-"tion Laws;" but that the provisions of the said Act shall be and they are hereby declared to be applicable to the several matters and things in this Act contained, the same as if the said provisions were specially enumerated and enacted herein.

Persons apprenticed under the Act, on the Expiration of their Apprenticeship, how to be disposed of.

XXX. Provided also, and be it further enacted, That it shall be lawful for his Majesty in council, from time to time to make such orders and regulations for the future disposal and support of such persons as shall have been bound apprentices under this Act, or the Acts hereby repealed, after the term of their apprenticeship shall have expired, or the indenture of apprenticeship shall have been cancelled, as to his Majesty shall seem meet, and as may prevent such persons from becoming at any time chargeable upon the island colony or settlement, in which they shall have been so bound apprentice as aforesaid.

Mode of providing for Slaves captured or seized during the Period of Adjudication.

XXXII. And be it further enacted, That when any slaves or persons treated, dealt with, carried, kept, or detained as slaves, shall be captured or seized as prize of war, or as forfeited or liable to forfeiture to his Majesty, or otherwise proceeded against in and by virtue of any law, and brought to adjudication in the High Court of Admiralty, or in any Court of Vice Admiralty, or in any court of his Majesty's colonies or plantations or elsewhere within his Majesty's dominions, which is or may be authorized to hold jurisdiction in such cases, it shall be lawful for the person or persons claiming any right or property in, or the possession of such slaves, and he is hereby required to put such slaves on shore; and it shall be lawful for the collector or other chief officer of the customs in such port or place in which such slaves shall be brought to adjudication, and he is hereby required to direct inquiry to be made, whether the persons or person claiming any right or property in, or the possession of such slaves, shall have furnished, or shall be willing and able to furnish sufficient food and necessaries for the support and wholesome maintenance of the said slaves, during the proceedings which may have been or may be instituted respecting such slaves; and such collector or other chief officer of the customs shall, as soon as may be, report to the governor or lieutenant governor, or other person exercising the authority of governor in such colony, or plantation or place, the result of such inquiry; and if it shall appear to the said governor or lieutenant governor, or other person exercising the authority of governor, that sufficient food and necessaries for the wholesome maintenance of such slaves, during the proceedings so instituted or to be instituted as aforesaid, have not been furnished; and if the person or persons claiming any right or property in or to such slaves shall refuse or afterwards neglect or omit to supply proper food and necessaries for the support and wholesome maintenance of the said slaves during such proceedings, the said governor or lieutenant governor, or other person exercising the authority, of governor in such colony or plantation or place, being satisfied of the truth of the report so made to him, shall authorize the said collector or chief officer of the customs to take on himself the immediate care and custody of such slaves, and to provide proper food and necessaries for such slaves, during the proceedings so instituted or to be instituted in any such court as aforesaid, until the said court shall have made its decree, having the force and effect of a definitive sentence, condemning or restoring the said slaves; and in case the said court shall, by such decree absolutely restore or condemn such slaves, the said court shall, on application made by the said collector or chief officer of the customs so providing or having provided for the support and maintenance of such slaves as aforesaid, direct the accounts for the provisions and necessaries so supplied for the said slaves to be brought into the registry of the court and examined,

and direct the same, when confirmed, to be a charge on the said slaves, to be defrayed by the person receiving possession thereof under the decree of such court: Provided nevertheless, that in case the court shall not immediately restore or condemn the said slaves by decree, having the force and effect of a definitive sentence, but shall direct further proof to be made in the cause, whereby the restitution or condemnation shall be deferred, and the person claiming any right or property in, or the possession of the said slaves, shall not have supplied, or at any time pending proceedings in that court shall refuse or neglect to supply proper food and necessaries for the said slaves, it shall be lawful for the court to direct a valuation to be made of such slaves, and to decree such slaves, after such valuation had and approved by the court, to be delivered over to such officer or person as may be appointed by his Majesty to receive slaves condemned to his Majesty's use, according to the provisions of this Act, and the same shall be dealt with and treated in all respects according to the said provisions, save and except that the bounty shall not be due or payable for such slaves, but in the event of final condemnation, according to the provisions of this Act.

If Party claiming Slaves shall neglect to provide for them pending Proceedings, they shall be dealt with as prescribed by this Act for Slaves condemned to His Majesty's Use; but no Bounty shall be payable for them, unless finally condemned.

XXXIII. And be it further enacted, That in all cases in which there shall have been a decree having the force and effect of a definitive sentence, restoring or condemning the said slaves, and the same shall be suspended by appeal, it shall be lawful for the court, notwithstanding such appeal, and it is hereby required to proceed forthwith to direct the slaves so detained to be valued as above directed; and after such valuation had and approved by the court, to be delivered over to such officer or person as may be appointed to receive slaves condemned to his Majesty's use, according to the aforesaid provisions, as if the same had been finally condemned to his Majesty; and such slaves shall be treated and dealt with in all respects in the same manner as if they had been finally condemned to his Majesty, save and except that the bounties shall not be due or payable thereon, but in the event of final condemnation to his Majesty, according to the provisions of this Act.

Proceedings with respect to Slaves in case of Appeal from a definitive Sentence.

XXXIV. And be it further enacted, That in all cases in which such slaves shall have been delivered over as before directed, and shall be finally restored in the Court of Appeal, restitution in value shall be made for the use of the claimant or proprietor thereof, according to the valuation made as above directed, together with interest thereon, such sums being deducted therefrom as may have been expended for the support and maintenance of the said slaves, by the collector or chief officer of the customs as above directed; and the value so adjusted shall be paid out of the consolidated fund in the same manner as bounties are directed to be paid for slaves condemned to his Majesty under this Act, on the production of an official copy of the final sentence of restitution, with the valuation of the said slaves indorsed thereon by the registrar of the said court, or his deputy, subject nevertheless, when the restitution shall be decreed by the Court of Appeal, to the review and correction of the said valuation.

Where Slaves shall be restored in the Court of Appeal, Restitution in Value shall be awarded, deducting the Expences of Maintenance.

XXXV. Provided always, and be it enacted, That nothing herein contained shall prevent the said courts or any of them having jurisdiction in the principal cause, from adjudging and decreeing the captors seizors or prosecutors in any such case as aforesaid, to pay, out of their own proper monies, such sums in the nature of costs or damages as the said court shall decree, when it shall appear to such court that the capture seizure or prosecution, or the appeal thereon on the behalf of the captor seizor or prosecutor shall not be justified by the circumstances of the case.

In case of Decree of Restitution, Costs or Damages may be awarded where Capture appears unjustifiable.

XXXVI. And be it further enacted, That all ships or vessels, whether *British* or foreign, which shall be condemned in any Court of Admiralty or Vice Admiralty in any part of his Majesty's dominions, for any offence in relation to the slave trade, or under any of the mixed commission courts herein-after mentioned, or which may in future be established in pursuance of any treaty or convention between this country and any foreign power, shall, from and after such judgment or condemnation respectively, be entitled to a certificate of registry as a *British* ship, and

Ships condemned for illicit Traffic in Slaves may be registered as British Ships.

No. II. 5 Geo. IV. c. 113.

thereupon have and enjoy all the privileges and advantages of *British*-built ships and vessels, being first duly registered according to the provisions of an Act made in the twenty-sixth year of the reign of his late Majesty, and shall be deemed and taken as such, and shall be entitled to have and enjoy all and every the same rights, liberties, privileges, and advantages in all respects whatsoever with *British*-built ships and vessels, and shall be subject and liable to all and every the rules and regulations that *British*-built ships or vessels are subject and liable to; any law custom or usage to the contrary thereof in anywise notwithstanding.

59 G. 3. c. 120. authorizing the King to appoint a Registrar for Colonial Slaves, confirmed;

XXXVII. And whereas in and by an Act passed in the fifty-ninth year of his late Majesty King *George* the Third, intituled "An Act for "establishing a Registry of Colonial Slaves in *Great Britain*, and for "making further Provisions with respect to the Removal of Slaves from "*British* Colonies," it is enacted, that it shall be lawful for his Majesty to nominate and appoint, by warrant under the hand and seal of one of his Majesty's principal secretaries of state, some fit and proper person as the registrar of colonial slaves, to receive the copies of all registries or returns of slaves, and of any abstracts or indexes referring thereto, which may have been, or which may at any time hereafter be transmitted from any of his Majesty's foreign possessions, either in pursuance of any order of his Majesty in council, or of any law or ordinance duly passed in any of the *British* colonies respectively, which said registrar, and his successors respectively, shall continue to hold the said office during his Majesty's pleasure; and also, that the commissioners of his Majesty's treasury of the United Kingdom of *Great Britain* and *Ireland*, or any three or more of them, shall assign to the registrar so appointed such a salary, not exceeding in the whole the sum of eight hundred pounds *per annum* as shall appear to them adequate and proper, and shall fix the number of such clerks officers or other persons, to assist the said registrar, as may from time to time be necessary, and shall allow to them also such salaries as may be proper, and also reasonable sums for incidental charges; all which salaries and charges shall be defrayed and paid, in the same manner as the salaries and incidental charges of the offices of his Majesty's principal secretaries of state are now defrayed and paid; and also, that the said commissioners of the treasury, or any three or more of them, shall provide a proper and distinct office for the said registrar, and shall appoint the several fees to be taken by the registrar or his assistants in the said office, and shall cause a schedule of the same to be delivered to the said registrar at the time of his appointment, which said schedule, or a copy thereof, shall be always kept and hung, for public information, in the office of registrar; provided always, that the fees so received by the registrar, or his assistants, shall be carried to the public account, and the residue thereof, if any, after paying the salaries of the registrar, and other persons employed in his office, shall be applied, under the direction of the said commissioners of the treasury, in aid of the expences of his Majesty's civil list; and also, that the person who may be at any time appointed registrar of colonial slaves shall, before he enters on the execution of his said office, be sworn before the chief justice or one of the justices of his Majesty's Courts of King's Bench or Common Pleas, or the chief baron, or one of the barons of his Majesty's Court of Exchequer, in the words following.

his Salary, Clerks, and Officers.

Office Fees; and Application thereof.

Oath of Office.

'I *A. B.* do solemnly promise and swear, That I will in all respects 'faithfully and uprightly perform the duties of registrar of colonial 'slaves, to the best of my judgment and ability.

'So help me GOD.'

Registrar ineligible as a Member of the House of Commons.

And also, that any registrar of slaves who may be appointed by virtue of this Act shall, during his continuance in such office, be incapable of being elected or of sitting as a Member of the House of Commons; and also, that as soon as the office of registrar of colonial slaves shall be opened, copies and duplicate of the several registries and returns of slaves in the several colonies, and all papers connected therewith, which may have been the Registrar, and be continued and corrected by him.

Returns, &c. shall be delivered over to

received by any of his Majesty's secretaries of state, shall be delivered over to the said registrar, and shall be by him kept in the said office; and the said registrar shall from time to time carry on, continue, correct, and enlarge the copies of the several registries of slaves respectively, pursuant to the further returns of slaves which may from time to time be received from the several colonies, and shall form such indexes and abstracts, and such convenient arrangements in other respects as may best promote regularity in keeping the said books and facilitate search therein; and also, that every such registrar or his clerk or assistants, so to be appointed as aforesaid, shall give due attendance at the said office every day in the week (except *Sundays* and such holidays as are kept at the bank of *England*), from the hour of ten of the clock in the morning to the hour of four of the clock in the afternoon, for the dispatch of all business belonging to the said office; and that every such registrar, or his clerks or assistants, shall, as often as required, make searches concerning any slave or slaves that shall be registered or supposed to be registered in any of the said books; and shall also, if required, give certificates under the hand of the said registrar as to the registration or non-registration of any such slave or slaves, with extracts, when the same is or are found to be registered, of the name and description or names and descriptions thereof and of the plantation or plantations, owner or owners to whom the same is or are described to belong, and of any other particulars relating thereto which may be stated in the said registry; and that such registrar shall be entitled to receive for every such search certificate or extract, such sums as shall be duly appointed in the schedule of fees, to be fixed by the said commissioners of the treasury as is herein-before provided for; and also, that it shall not be lawful for any of his Majesty's subjects in this United Kingdom to purchase or to lend or advance any money goods or effects upon the security of any slave or slaves in any of his Majesty's colonies or foreign possessions, unless such slave or slaves shall appear by the return received therein to have been first duly registered in the said office of the registrar of colonial slaves; and that every sale mortgage and conveyance, or assurance of, and every charge or other security upon any slave or slaves not so appearing to be registered, which shall be made or executed within this United Kingdom, to or in trust for any of his Majesty's subjects, shall be absolutely null and void in respect of any such unregistered slave or slaves; and that for this purpose no slave or slaves shall be deemed and taken to be duly registered, unless it shall appear that a return of such slave or slaves duly made by the owner or owners or other persons in his or their behalf in the manner and form required by law in the colony in which such slave or slaves may reside, or a copy or abstract of such return, shall have been received in the office of the said registrar from the colony in which such slave or slaves shall reside within the four years next preceding the date of such sale, mortgage, conveyance, or assurance charge or security as aforesaid; and also, that no deed or instrument made or executed within this United Kingdom, whereby any slave or slaves in any of the said colonies shall be intended to be mortgaged, sold, charged, or in any manner transferred or conveyed, or any estate or interest therein created or raised, shall be good or valid in law, to pass or convey, charge or affect any such slave or slaves, unless the registered name and description, or names and descriptions, of such slave or slaves, shall be duly set forth in such deed or instrument, or in some schedule thereupon indorsed or thereto annexed, according to the then latest registration, or corrected registration, of such slave or slaves, in the said office of the registrar of slaves: Provided always, that no deed or instrument shall be avoided or impeached by reason of a clerical error in setting forth the names and descriptions of any slave or slaves therein or in any schedule thereto contained, nor shall the same be avoided or impeached by reason of any disagreement between the names and descriptions and the entries thereof, in the books of the registry, or duplicate registry, which shall have arisen from any error or default of the registrar, his assistant or clerks, in extracting and certifying the said names and descriptions, without the fraudulent contrivance or wilful default of the parties to such deed or instru-

Registrar's Attendance and Duties.

Fees thereon.

Purchase of Slaves or Advance of Money on Security of Slaves in the Colonies allowable only in case of Registration.

What Slaves shall be considered registered for the Purpose of Purchase.

By what Forms only Slaves in the Colonies may be conveyed or charged.

No. II. 5 Geo. IV. c. 113.

ment: Provided also, that nothing herein contained shall extend or be construed to hinder or prevent the transfer or assignment of any security, mortgage or charge, of or upon slaves, granted, made, created or executed antecedently to the passing of this Act, nor to avoid any deed or instrument whereby such security mortgage or charge shall be hereafter transferred, nor to avoid hinder or impeach any will codicil or other testamentary paper, or any probate or letters of administration, or any bill of sale, assignment, conveyance, or instrument, made by or under the authority of any commission of bankrupt, or any public officer appointed to assign or convey any insolvent estate and effects, or by or under the authority of any court of justice, or any officer thereof or in the execution of any legal process, by reason that the registered names and descriptions of any slaves are not set forth in such deed, will, codicil, testamentary paper, probate of letters of administration, bill of sale, assignment, conveyance, or instrument; and also, that the issue of any slave or slaves, named or described in any deed or instrument executed in the United Kingdom, or any schedule thereto, born after the return required by law, in the colony in which such slave or slaves may be resident, who shall afterwards be duly registered in the next return required by law in the said colony, shall be deemed and considered to pass and be conveyed and affected as registered slaves by such deed or instrument, as effectually to all intents and purposes as if such issue were therein named and described, and any thing in this Act contained to the contrary notwithstanding; now be it declared and enacted, That the said several enactments shall be and remain in full force and effect.

Manner in which the Issue of Slaves named in Deeds shall pass or be charged thereby.

A Governor de facto shall be a Governor within this Act.

XXXVIII. And be it further enacted, That every Act which the governor of any island, colony, plantation, or territory, belonging to or under the dominion of his Majesty, is by this Act directed or authorized to do or perform, may be lawfully done or performed by the person or persons executing *pro tempore* the office or function of governor of any such island, colony, plantation, or territory, by authority from his Majesty, whether under the style and title of governor lieutenant governor president of the council, or under any other style or title whatsoever.

All Securities given in Contravention of this Act shall be void.

XXXIX. And be it further enacted, That every mortgage, bond, bill, note, or other security, made in or to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have by this Act been declared unlawful, shall, except in the case of a *bona fide* purchaser or holder of any such of the said securities as are in their nature negotiable, who may have purchased or obtained the same, without notice that the same were made or given for any such unlawful purposes, be void.

In what Cases Offenders shall be exempted.

XL. Provided always, and be it further enacted, That if any person or persons offending as a petty officer, seaman, marine, or servant, against any of the provisions of this Act, shall, within two years after the offence committed, give information on oath before any competent magistrate, against any owner or part owner, or any captain, master, mate, surgeon, or supercargo of any ship or vessel, who shall have committed any offence against this Act, and shall give evidence on oath against such owner or part owner, captain, master, mate, surgeon, or supercargo, before any magistrate or court before whom such offender may be tried; or if such person or persons so offending shall give information to any of his Majesty's ambassadors, ministers plenipotentiary, envoys, chargés d'affaires, consuls, residents, or other agents, so that any person or persons owning such ship or vessel, or navigating or taking charge of the same, as captain, master, mate, surgeon, or supercargo, may be apprehended, such person or persons so giving information and evidence shall not be liable to any of the pains or penalties under this Act, incurred in respect of his offence, and his Majesty's ambassadors, ministers plenipotentiary, envoys, chargés d'affairs, consuls, residents, or other agents, are hereby required to receive any such information as aforesaid, and to transmit the particulars thereof, without delay, to one of his Majesty's principal secretaries of state, and to transmit copies of the same to the commanders of his Majesty's ships or vessels then being in the said port or place.

XLI. And be it further enacted, That if any oath taken under this Act shall be wilfully false, or if such false oath shall be unlawfully or wilfully procured or suborned, the offender shall incur and suffer the like pains and penalties as are by law inflicted upon persons committing wilful and corrupt perjury, or subornation of perjury respectively.

Punishment for Perjury.

XLII. And be it further enacted, That where any slave or slaves that may be lawfully removed shall be sent, removed, carried, or conveyed, without observing the regulations, or any or either of them, required by this Act, such slave or slaves shall be forfeited to his Majesty, his heirs and successors; and where any slave or slaves shall be found on board, who shall be untruly or fraudulently described in or upon the clearance or permit required by this Act, with intent to violate or elude any of the prohibitions or regulations in this Act contained, the owner master or other person by whom or by whose procurement such slave or slaves shall be so untruly or fraudulently described, with such intent as aforesaid, shall respectively forfeit and pay the sum of one hundred pounds lawful money of *Great Britain* for every such slave or slaves; and also where the non-observance shall consist in exporting, sending, removing, carrying, or conveying any slave or slaves (not being domestics or mariners, as in this Act aforesaid), without such certified copy from the registrar of the colony, as by this Act is mentioned, the ship or vessel in which the same shall be so exported, sent, removed, carried, or conveyed, shall be forfeited to his Majesty, his heirs and successors; and where the non-observance shall consist in embarking or carrying any slave or slaves without such certificate, the master or other person having the charge of the ship or vessel in which the same shall be so embarked and carried, without such certificate as aforesaid, shall forfeit and pay the sum of one hundred pounds lawful money aforesaid for every such slave or slaves.

Slaves removed without observing Regulations, forfeited.

Penalty 100*l.* for every such Slave and Ship.

Penalty upon Masters of Ships carrying Slaves without Certificate, 100*l.* for every such Slave.

XLIII. And be it further enacted, That all ships, vessels, slaves, or persons treated, dealt with, carried, kept, or detained as slaves, and all goods and effects that may become forfeited under this Act, shall and may be seized by any officer of his Majesty's customs, or by the commanders or officers of any of his Majesty's ships or vessels of war, or any officer bearing his Majesty's commission in his Majesty's navy or army; and moreover, it shall and may be lawful for all governors or persons having the chief command, civil or military, of any of the colonies settlements, forts, or factories belonging to his Majesty, and for all persons deputed and authorized by any such governor or commander in chief, to seize and prosecute all ships and vessels, slaves, or persons treated, dealt with, carried, kept or detained as slaves, and all goods and effects whatsoever that shall or may become forfeited for any offence under this Act.

Seizure of Forfeitures by whom made.

XLIV. And be it further enacted, That the proceeds of all ships and goods seized prosecuted and condemned for any offence against this Act, except in such seizures as shall be made at sea by the commanders or officers of his Majesty's ships or vessels of war, shall be divided paid and applied as follows; (that is to say,) after deducting the charges of prosecution from the gross amount thereof, one-third of the net proceeds shall be paid into the hands of such person as his Majesty, his heirs and successors may please to appoint, for the use of his Majesty, his heirs and successors; one-third part thereof to the governor or commander in chief of the island, colony, plantation, settlement, or territory, where the said seizure shall have been made or prosecuted; and the other third part thereof to the person or persons who shall lawfully seize inform and prosecute the same to condemnation; and in cases of seizures made at sea by the commanders or officers of his Majesty's ships or vessels of war, one moiety of the said net proceeds, after deducting the charges of prosecution as aforesaid, shall be paid into the hands of such person as his Majesty, his heirs and successors may please to appoint for the use of his Majesty, his heirs and successors, and the other moiety to the commanders or officers of his Majesty's ships or vessels of war, who shall have made the seizure, and prosecuted the same to condemnation, subject nevertheless to such distribution in the seizures made by the commanders or officers of his Majesty's ships, or vessels of war, whether at sea or otherwise, as his Majesty, his heirs and

Appropriation of Ships and Goods forfeited.

No. II. 5 Geo. IV. c. 113.

successors, shall think fit to order and direct by any order or orders in council or by any proclamation or proclamations to be made for that purpose.

Privileges of Seizors, 4 G. 3. c. 15.

XLV. And be it further enacted, That all persons authorized to make seizures under this Act shall, in making and prosecuting any such seizures, have the benefit of all the provisions made by an Act of the fourth year of his late Majesty King *George* the Third, intituled "An Act for "granting certain Duties in the *British* Colonies and Plantations in "*America*; for continuing amending and making perpetual an Act, passed "in the sixth year of the reign of his late Majesty King *George* the "Second, intituled 'An Act for the better securing and encouraging the "'Trade of his Majesty's Sugar Colonies in *America*,' for applying the "Produce of such Duties, and of the Duties to arise by virtue of the said "Act, towards defraying the Expences of defending protecting and se-"curing the said Colonies and Plantations; for explaining an Act made "in the Twenty-fifth Year of the reign of King *Charles* the Second, inti-"tuled 'An Act for the Encouragement of the *Greenland* and *Eastland* "'Trades, and for the better securing the Plantation Trade;' and for "altering and disallowing several Drawbacks on Exports from this King-"dom, and more effectually preventing the clandestine Conveyance of "Goods to and from the said Colonies and Plantations, and improving "and securing the Trade between the same and *Great Britian*;" or any other Act made for the protection of officers seizing and prosecuting for any offence against the said Act, relating to the trade and revenues of the *British* colonies or plantations in *America*.

General Issue and Treble Costs.

XLVI. And be it further enacted, That if any action or suit shall be commenced either in *Great Britain*, or elsewhere, against any person or persons for any thing done in pursuance of this Act, the defendant or defendants in such action or suit may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act; and if it shall appear so to have been done, the jury shall find for the defendant or defendants; and if the plaintiff shall be nonsuited, or discontinue his action after the defendant or defendants shall have appeared, or if judgment shall be given upon any verdict or demurrer against the plaintiff, the defendant or defendants shall recover treble costs, and have the like remedy for the same as defendants have in other cases by law.

Limitation of Suit for Penalties and Forfeitures.

XLVII. And be it further enacted, That all actions, suits, bills, indictments, or informations, for the recovery of any of the penalties or forfeitures under this Act, may be commenced, had, brought, sued, exhibited, or prosecuted at any time within five years after the offence committed, by reason whereof such penalty or forfeiture shall be incurred: Provided always, that where any slave or slaves have been, or shall at any time have been illegally imported, nothing herein contained shall extend to prevent proceeding being commenced to obtain the condemnation or forfeiture thereof, but that the said slave or slaves so illegally imported shall and may be condemned and forfeited at any time after such illegal importation.

Mode of Trial for Offences against this Act.

XLVIII. And be it further enacted, That all offences against this Act which shall be committed in any country territory or place, other than this United Kingdom, or on the high seas, or in any port, sea, creek, or place where the admiral has jurisdiction, and which shall be prosecuted as piracies, felonies, robberies, or misdemeanors, shall and may be inquired of, either according to the ordinary course of law, and the provisions of an

28 H. 8. c. 15.

Act passed in the twenty-eighth year of the reign of King *Henry* the Eighth, intituled, "An Act for Pirates;" or according to the provisions of

33 H. 8. c. 23.

an Act passed in the thirty-third year of the reign of King *Henry* the Eighth, intituled "An Act to proceed by Commission of Oyer and Ter-"miner against such Persons as shall confess Treason and Felony, without "remanding the same to be tried in the Shire where the Offence was

11 & 12 W. 3. c. 7.

"committed," as far as the same Act is now repealed: or according to the provisions of an Act passed in the eleventh and twelfth years of the reign of his late Majesty King *William* the Third, intituled "An Act passed for

No. II. 5 Geo. IV. c. 113.

" the more effectual Suppression of Piracy," in as far as the same Act is now unrepealed; or according to the provisions of an Act passed in the forty-sixth year of the reign of his late Majesty King *George* the Third, intituled "An Act passed for the more speedy Trial of Offences committed " in distant Parts, upon the Seas;" and all persons convicted of any of the said offences, to be inquired of, tried and determined, under and by virtue of any commission to be made or issued according to the directions of the said Act of the forty-sixth year of his late Majesty's reign aforesaid, shall be subject and liable to and shall suffer all such and the same pains penalties and forfeitures, as by this Act, or any law or laws now in force, persons convicted of the same respectively would be subject and liable to, in case the same were respectively inquired of, tried and determined and adjudged within this realm, by virtue of any commission made according to the directions of the statute of the twenty-eighth year of the reign of King *Henry* the Eighth.

46 G. 3. c. 54.

Offences committed out of the Admiral's Jurisdiction.

XLIX. And be it further enacted, That all offences against this Act, which shall be committed in any place where the admiral has not jurisdiction, and not being within the local jurisdiction of any ordinary court of a *British* colony, settlement, plantation, or territory, competent to try such offence, may be inquired of tried and determined, under and by virtue of any commission to be issued according to the directions of the said Act of the forty-sixth year of the reign of his late Majesty king *George* the third.

Process and Trial.

L. And be it further enacted, That all offences committed against this Act may be inquired of, tried, determined, and dealt with, as if the same had been respectively committed within the body of the county of *Middlesex*.

Recovery and Application of Forfeitures and Penalties.

LI. And be it further enacted, That, unless in cases specially provided for by this Act, all forfeitures and penalties shall and may be prosecuted, sued for, recovered, and applied as follows; (that is to say,) the several pecuniary penalties and forfeitures imposed and inflicted by this Act shall and may be sued for prosecuted and recovered in any Court of Record in *Great Britain*, or in any Court of Record or Vice Admiralty in any part of his Majesty's dominions, wherein the offence was committed, or where the offender may be found after the commission of such offence; and all seizures of ships, vessels or boats, slaves or persons treated, dealt with, carried, kept, or detained as slaves, goods or effects, subject to forfeiture under this Act, shall and may be sued for prosecuted and recovered in any Court of Record in *Great Britain*, or in any Court of Record or Vice Admiralty in any part of his Majesty's dominions in or nearest to which such seizures may be made, or to which such ships or vessels, slaves or persons treated as slaves as aforesaid, goods or effects (if seized at sea or without the limits of any *British* jurisdiction) may most conveniently be carried for trial; and all the said penalties and forfeitures, whether pecuniary or specific (unless where it is expressly otherwise provided for by this Act), shall go and belong to such persons, in such shares and proportions, and shall and may be sued for and prosecuted, tried, recovered, distributed, and applied, in such and the like manner, and by the same ways and means, and subject to the same rules and directions, as any penalties or forfeitures incurred in *Great Britain* and in the *British* colonies and plantations in *America* respectively, by force of any Act relating to the trade and revenues of the said *British* colonies or plantations in *America*, now go and belong to, and may now be sued for, prosecuted, tried, recovered, distributed, and applied respectively in *Great Britain*, or in the said colonies or plantations respectively, under and by virtue of a certain Act made in the fourth year of his late Majesty King *George* the Third, intituled " An Act for granting certain Duties in the *British* Colonies and " Plantations in *America;* for continuing amending and making perpetual " an Act passed in the Sixth Year of the Reign of His late Majesty King " *George* the Second, intituled ' An Act for the better securing and en- " ' couraging the Trade of His Majesty's Sugar Colonies in *America;*' for " applying the Produce of such Duties to arise by virtue of the said Act " towards defraying the Expences of defending protecting and securing

4 G. 3. c. 15.

No. II. 5 Geo. IV. c. 113.

" the said Colonies and Plantations; for explaining an Act made in the " Twenty-fifth Year of the Reign of King *Charles* the Second, intituled " ' An Act for the Encouragement of the *Greenland* and *Eastland* Trades, " ' and for the better securing the Plantation Trade;' and for altering and " disallowing several Drawbacks on Exports from this Kingdom, and " more effectually preventing the clandestine Conveyance of Goods to and " from the said Colonies and Plantations, and improving and securing the " Trade between the same and *Great Britain*."

Recital of certain Treaties, &c., for preventing Traffic in Slaves.

LII. And whereas certain treaties and conventions, and a declaration, together with certain explanatory and additional articles, still subsisting full in force, were made between his late Majesty King *George* the Third, and his Catholic Majesty the King of *Spain*, his most faithful Majesty the King of *Portugal*, and his Majesty the King of the *Netherlands* respectively, for preventing traffic in slaves, of the tenor and effect following; *videlicet*,

Treaty with Portugal, dated Jan. 22, 1815.

TREATY between Great Britain and Portugal signed at Vienna the twenty-second of January one thousand eight hundred and fifteen.

IN the name of the most holy and undivided Trinity: His Royal Highness the Prince Regent of *Portugal* having, by the tenth article of the treaty of alliance concluded at *Rio de Janeiro* on the 19th *February* 1810, declared his determination to co-operate with his *Britannic* Majesty in the cause of humanity and justice, by adopting the most efficacious means for bringing about a gradual abolition of the slave trade; and his Royal Highness, in pursuance of his said declaration, and desiring to effectuate, in concert with his *Britannic* Majesty and the other powers of *Europe* who have been induced to assist in this benevolent object, an immediate abolition of the said traffic upon the parts of the coast of *Africa* which are situated to the northward of the line; his *Britannic* Majesty and his Royal Highness the Prince Regent of *Portugal*, equally animated by a sincere desire to accelerate the moment when the blessings of peaceful industry and an innocent commerce may be encouraged throughout this extensive portion of the continent of *Africa*, by its being delivered from the evils of the slave trade, have agreed to enter into a treaty for the said purpose, and have accordingly named as their plenipotentiaries; *viz.* his Majesty the King of the United Kingdom of *Great Britain* and *Ireland*, the right honourable *Robert Stewart*, Viscount *Castlereagh*, knight of the most noble order of the Garter, a member of his said Majesty's most honourable privy council, a member of Parliament, colonel of the regiment of militia of *Londonderry*, his Majesty's principal secretary of state for foreign affairs, and his plenipotentiary at the Congress of *Vienna*; and his Royal Highness the Prince Regent of *Portugal*, the most illustrious and most excellent *Don Pedro de Sousa Holstein*, Count of *Palmella*, a member of his Royal Highness's council, commander of the order of Christ, captain of a company of the royal *German* life guard; the most illustrious and most excellent *Anthony de Saldanha de Gama*, a member of his Royal Highness's council and of his council of finance, commander of the military order of *St. Benedict of Aviz*; and the most illustrious and most excellent *Don Joachim Lobo da Silveira*, a member of his Royal Highness's council, and commander of the order of Christ, his Royal Highness's plenipotentiaries at the Congress of *Vienna*; who, having mutually exchanged their full powers, found in good and due form, have agreed upon the following articles:

Article the First.—That from and after the ratification of the present treaty, and the publication thereof, it shall not be lawful for any of the subjects of the crown of *Portugal* to purchase slaves, or to carry on the slave trade, on any part of the coast of *Africa* to the northward of the equator, upon any pretext, or in any manner whatsoever: Provided nevertheless, that the said provision shall not extend to any ship or ships having cleared out from the ports of *Brazil* previous to the publication of such ratification, and provided the voyage in which such ship or ships are engaged shall not be protracted beyond six months after such publication as aforesaid.

Article the Second.—His Royal Highness the Prince Regent of *Portugal* hereby agrees and binds himself to adopt in concert with his *Britannic* Ma-

jesty, such measures as may best conduce to the effectual execution of the preceding engagement, according to its true intent and meaning; and his *Britannic* Majesty engages, in concert with his Royal Highness, to give such orders as may effectually prevent any interruption being given to *Portuguese* ships resorting to the actual dominions of the crown of *Portugal*, or to the territories which are claimed in the said treaty of alliance, as belonging to the said Crown of *Portugal*, to the southward of the line, for the purposes of trading in slaves as aforesaid, during such further period as the same may be permitted to be carried on by the laws of *Portugal*, and under the treaties subsisting between the two crowns.

Article the Third.—The treaty of alliance concluded at *Rio de Janeiro* on the nineteenth day of *February* one thousand eight hundred and ten, being founded on circumstances of a temporary nature, which have happily ceased to exist, the said treaty is hereby declared to be void in all its parts and of no effect; without prejudice, however, to the ancient treaties of alliance friendship and guarantee, which have so long and so happily existed between the two crowns, and which are hereby renewed by the high contracting parties, and acknowledged to be of full force and effect.

Article the Fourth.—The high contracting parties reserve to themselves, and engage to determine by a separate treaty the period at which the trade in slaves shall universally cease, and be prohibited throughout the entire dominions of *Portugal*; the Prince Regent of *Portugal* hereby renewing his former declaration and engagement, that during the interval which is to elapse before such general and final abolition shall take effect it shall not be lawful for the subjects of *Portugal* to purchase or trade in slaves upon any parts of the coast of *Africa*, except to the southward of the line, as specified in the second article of this treaty, nor to engage in the same, or to permit their flag to be used except for the purpose of supplying the transatlantic possessions belonging to the crown of *Portugal*.

Article the Fifth.—His *Britannic* Majesty hereby agrees to remit, from the date at which the ratification mentioned in the first article shall be promulgated, such further payments as shall then remain due and payable upon the loan of six hundred thousand pounds made in *London* for the service of *Portugal* in the year one thousand eight hundred and nine, in consequence of a convention signed on the twenty-first day of *April* of the same year; which convention, under the conditions specified as aforesaid, is hereby declared to be void and of no effect.

Article the Sixth.—The present treaty shall be ratified, and the ratifications shall be exchanged at *Rio de Janeiro* in the space of five months, or sooner if possible. In witness whereof the respective plenipotentiaries have signed it, and have thereunto affixed the seals of their arms.

Done at *Vienna*, this twenty-second day of *January*, in the year of our Lord one thousand eight hundred and fifteen.

(Signed)
(L. S.) *Castlereagh.*

(Signed)
(L. S.) *Conde de Palmella.*
(L. S.) *Antonio de Saldanha de Gama.*
(L. S.) *B. Joaquim Lobo da Silveira.*

Additional Article.—It is agreed, that in the event of any of the *Portuguese* settlers being desirous of retiring from the settlements of the crown of *Portugal* on the coast of *Africa* to the northward of the equator, with the negroes *bonâ fide* their domestics, to some other of the possessions of the crown of *Portugal*, the same shall not be deemed unlawful, provided it does not take place on board a slave-trading vessel, and provided they be furnished with proper passports and certificates, according to a form to be agreed upon between the two governments.

The present additional article shall have the same force and effect as if it were inserted word for word in the treaty signed this day, and shall be ratified, and the ratifications exchanged at the same time.

In witness whereof the respective plenipotentiaries have signed it, and have thereunto affixed the seals of their arms.

No. II.
5 Geo. IV.
c. 113.

Done at *Vienna* this twenty-second day of *January* in the year of our Lord one thousand eight hundred and fifteen.

(Signed)
(L. S.) *Castlereagh.*

(Signed)
(L. S.) *Conde de Palmella.*
(L. S.) *Antonio de Saldanha da Gama.*
(L. S.) *B. Joaquim Lobo da Silveira.*

Convention to the Treaty with Portugal, dated July 28, 1817.

Additional Convention to the Treaty of the Twenty-second January One thousand eight hundred and fifteen, between His Britannic Majesty and his Most Faithful Majesty, for the purpose of preventing their Subjects from engaging in any illicit Traffic in Slaves. Signed at London the Twenty-eighth of July One thousand eight hundred and seventeen, in the English and Portuguese Languages.

His Majesty the King of the United Kingdom of *Great Britain* and *Ireland* and his Majesty the King of the United Kingdom of *Portugal, Brazil,* and *Algarves,* adhering to the principles which they have manifested in the declaration of the Congress of *Vienna* bearing date the eighth of *February* one thousand eight hundred and fifteen, and being desirous to fulfil faithfully, and to their utmost extent, the engagements which they mutually contracted by the Treaty of the twenty-second of *January* one thousand eight hundred and fifteen, and till the period shall arrive when, according to the tenor of the fourth article of the said treaty, his most faithful Majesty has reserved to himself, in concert with his *Britannic* Majesty, to fix the time when the trade in slaves shall cease entirely and be prohibited in his dominions; and his Majesty the King of the United Kingdom of *Portugal, Brazil,* and *Algarves,* having bound himself by the second article of the said treaty to adopt the measures necessary to prevent his subjects from all illicit traffic in slaves; and his Majesty the King of the United Kingdom of *Great Britain* and *Ireland,* having on his part engaged, in conjunction with his most faithful Majesty, to employ effectual means to prevent *Portuguese* vessels trading in slaves, in conformity with the laws of *Portugal* and the existing treaties, from suffering any loss or hinderance from *British* cruizers, their said Majesties have accordingly resolved to proceed to the arrangement of a convention for the attainment of these objects, and have therefore named as plenipotentiaries *ad hoc; viz.*

His Majesty the King of the United Kingdom of *Great Britain* and *Ireland,* the right honourable *Robert Stewart,* Viscount *Castlereagh,* a member of his said Majesty's most honourable privy council, a member of parliament, colonel of the *Londonderry* regiment of militia, knight of the most noble order of the Garter, and his principal secretary of state for foreign affairs; and his Majesty the King of the United Kingdom of *Portugal, Brazil* and *Algarves,* the most illustrious and most excellent Lord *Don Pedro de Souza Holstein,* Count of *Palmella,* councillor of his said Majesty, captain of the *German* company of his royal guards, commander of the order of Christ, grand cross of the order of *Charles* the Third of *Spain,* and his envoy extraordinary and minister plenipotentiary to his *Britannic* Majesty: who, after having exchanged their respective full powers, found to be in good and dueform, have agreed upon the following articles:

Article the First.— The object of this convention is, on the part of the two governments, mutually to prevent their respective subjects from carrying on an illicit slave trade.

The two high contracting powers declare, that they consider as illicit any traffic in slaves carried on under the following circumstances:

1st. Either by *British* ships, and under the *British* flag, or for the account of *British* subjects, by any vessel or under any flag whatsoever.

2d. By *Portuguese* vessels, in any of the harbours or roads of the coast of *Africa* which are prohibited by the first article of the treaty of the twenty-second *January* one thousand eight hundred and fifteen.

3d. Under the *Portuguese* or *British* flag for the account of the subjects of any other government.

4th. By *Portuguese* vessels bound for any port not in the dominions of his most faithful Majesty.

Article the Second.—The territories in which the traffic in slaves continues to be permitted, under the treaty of the twenty-second of *January* one thousand eight hundred and fifteen, to the subjects of his most faithful Majesty, are the following:

1st. The territories possessed by the crown of *Portugal* upon the coast of *Africa* to the south of the equator; that is to say, upon the eastern coast of *Africa*, the territory laying between *Cape Delgado* and the bay of *Lourenço Marques;* and upon the western coast, all that which is situated from the eighth to the eighteenth degree of south latitude.

2d. Those territories on the coast of *Africa* to the south of the equator, over which his most faithful Majesty has declared that he has retained his rights; namely,

The territories of *Molembo* and *Cabinda* upon the eastern coast of *Africa*, from the fifth degree twelfth minute to the eighth degree south latitude.

Article the Third.—His most faithful Majesty engages within the space of two months after the exchange of the ratifications of this present convention, to promulgate in his capital, and in the other parts of his dominions, as soon as possible, a law which shall prescribe the punishment of any of his subjects who may in future participate in an illicit traffic of slaves, and at the same time to renew the prohibition which already exists, to import slaves into the *Brazils* under any flag other than that of *Portugal;* and his most faithful Majesty engages to assimilate as much as possible the legislation of *Portugal* in this respect to that of *Great Britain.*

Article the Fourth.—Every *Portuguese* vessel which shall be destined for the slave trade, on any point of the *African* coast where this traffic still continues to be lawful, must be provided with a royal passport, conformable to the model annexed to this present convention, and which model forms an integral part of the same. The passport must be written in the *Portuguese* language, with an authentic translation in *English* annexed thereto, and it must be signed for those vessels sailing from the port of *Rio Janeiro* by the minister of marine; and for all other vessels which may be intended for the said traffic, and which may sail from any other ports of the *Brazils*, or from any other of the dominions of his most faithful Majesty not in *Europe*, the passports must be signed by the governor in chief of the captaincy to which the port belongs; and as to those vessels which may proceed from the ports of *Portugal*, to carry on the traffic in slaves, their passports must be signed by the secretary of the government for the marine department.

Article the Fifth.—The two high contracting powers, for the more complete attainment of their object, namely, the prevention of all illicit traffic in slaves on the part of their respective subjects, mutually consent that the ships of war of their royal navies, which shall be provided with special instructions for this purpose, as herein-after is provided, may visit such merchant vessels of the two nations as may be suspected, upon resonable grounds, of having slaves on board, acquired by an illicit traffic, and in the event only of their actually finding slaves on board may detain and bring away such vessels, in order that they may be brought to trial before the tribunals established for this purpose, as shall herein-after be specified.

Provided always, that the commanders of the ships of war of the two royal navies, who shall be employed on this service, shall adhere strictly to the exact tenor of the instructions which they shall have received for this purpose.

As this article is entirely reciprocal, the two high contracting parties engage mutually to make good any losses which their respective subjects may incur unjustly, by the arbitrary and illegal detention of their vessels.

No. II. 5 Geo. IV. c. 113.

It being understood that this indemnity shall invariably be borne by the government whose cruizer shall have been guilty of the arbitrary detention: Provided always, that the visit and detention of slave ships, specified in this article, shall only be effected by those *British* or *Portuguese* vessels which may form part of the two royal navies, and by those only of such vessels which are provided with the special instructions annexed to the present convention.

Article the Sixth.—No *British* or *Portuguese* cruizer shall detain any slave ship not having slaves actually on board; and in order to render lawful the detention of any ship, whether *British* or *Portuguese*, the slaves found on board such vessel must have been brought there for the express purpose of the traffic, and those on board *Portuguese* ships must have been taken from that part of the coast of *Africa* where the slave trade was prohibited by the treaty of the twenty-second of *January* one thousand eight hundred and fifteen.

Article the Seventh.—All ships of war of the two nations, which shall hereafter be destined to prevent the illicit traffic in slaves, shall be furnished by their own government with a copy of the instructions annexed to the present convention, and which shall be considered as an integral part thereof.

These instructions shall be written in *Portuguese* and *English* and signed for the vessels of each of the two powers by the ministers of their respective marine.

The two high contracting parties reserve the faculty of altering the said instructions, in whole or in part, according to circumstances; it being however well understood, that the said alterations cannot take place but by common agreement, and by the consent of the two high contracting parties.

Article the Eighth.—In order to bring to adjudication, with the least delay and inconvenience, the vessels which may be detained for having been engaged in an illicit traffic of slaves, there shall be established, within the space of a year at furthest from the exchange of the ratifications of the present convention, two mixed commissions, formed of an equal number of individuals of the two nations, named for this purpose by their respective sovereigns.

These commissions shall reside, one in a possession belonging to his *Britannic* Majesty, the other within the territories of his most faithful Majesty; and the two governments, at the period of the exchange of the ratifications of the present convention, shall declare, each for its own dominions, in what places the commissions shall respectively reside. Each of the two high contracting parties reserving to itself the right of changing at its pleasure the place of residence of the commission held within its own dominions; provided however that one of the two commissions shall always be held upon the coast of *Africa*, and the other in the *Brazils*.

These commissions shall judge the causes submitted to them without appeal, and according to the regulations and instructions annexed to the present convention, of which they shall be considered as an integral part.

Article the Ninth.—His *Britannic* Majesty, in conformity with the stipulations of the treaty of the twenty-second of *January* one thousand eight hundred and fifteen, engages to grant, in the manner hereafter explained, sufficient indemnification to all the proprietors of *Portuguese* vessels and cargoes captured by *British* cruizers between the first of *June* one thousand eight hundred and fourteen, and the period at which the two commissions pointed out in article eight, of the present convention, shall assemble at their respective posts.

The two high contracting parties agree, that all claims of the nature herein-before mentioned shall be received and liquidated by a mixed commission, to be held at *London*, and which shall consist of an equal number of the individuals of the two nations, named by their respective Sovereigns, and upon the same principles stipulated by the eighth article of this additional convention, and by the other Acts which form an integral part of the same. The aforesaid commissions shall commence their func-

tions six months after the ratification of the present convention, or sooner if possible.

The two high contracting parties have agreed, that the proprietors of vessels captured by the *British* cruizers cannot claim compensation for a larger number of slaves than that which, according to the existing laws of *Portugal*, they were permitted to transport, according to the rate of tonnage of the captured vessel.

The two high contracting parties are equally agreed, that every *Portuguese* vessel captured with slaves on board for the traffic, which shall be proved to have been embarked within the territories of the coast of *Africa* situated to the north of *Cape Palmas*, and not belonging to the Crown of *Portugal*, as well as all *Portuguese* vessels captured with slaves on board for the traffic six months after the exchange of the ratification of the treaty of the twenty-second of *January* one thousand eight hundred and fifteen, and on which it can be proved, that the aforesaid slaves were embarked in the roadsteads of the coast of *Africa* situated to the north of the equator, shall not be entitled to claim any indemnification.

Article the Tenth.—His *Britannic* Majesty engages to pay within the space of a year at farthest from the decision of each case, to the individual having a just claim to the same, the sums which shall be granted to them by the commissions named in the preceding articles.

Article the Eleventh.—His *Britannic* Majesty formally engages to pay the three hundred thousand pounds sterling of indemnification, stipulated by the convention of the twenty-first of *January* one thousand eight hundred and fifteen, in favour of the proprietors of *Portuguese* vessels captured by *British* cruizers up to the period of the first of *June* one thousand eight hundred and fourteen, in the manner following; *viz.*

The first payment of one hundred and fifty thousand pounds sterling six months after the exchange of the ratifications of the present convention, and the remaining one hundred and fifty thousand pounds sterling, as well as the interest at five *per cent.* due upon the total sum from the day of the exchange of the ratifications of the convention of the twenty-first of *January* one thousand eight hundred and fifteen, shall be paid nine months after the exchange of the ratifications of the present convention. The interest due shall be payable up to the day of the last payment. All the aforesaid payments shall be made in *London* to the minister of his most faithful Majesty at the court of his *Britannic* Majesty, or to the persons whom his most faithful Majesty shall think proper to authorize for that purpose.

Article the Twelfth.—The acts or instruments annexed to this additional convention, and which form an integral part thereof, are as follow:

No. 1. Form of passport for the *Portuguese* merchant ships destined for the lawful traffic in slaves.

No. 2. Instructions for the ships of war of both nations destined to prevent the illicit traffic in slaves.

No. 3. Regulation for the mixed commissions which are to hold their sittings on the coast of *Africa*, at the *Brazils*, and in *London*.

Article the Thirteenth.—The present convention shall be ratified, and the ratifications thereof exchanged at *Rio Janeiro*, within the space of four months at furthest, dating from the day of its signature.

In witness whereof the respective plenipotentiaries have signed the same, and have thereunto affixed the seal of their arms.

Done at *London*, the twenty-eighth day of *July*, in the year of our lord one thousand eight hundred and seventeen.

(Signed) (L. S.) *Castlereagh.*

(Signed) (L. S.) *The Count of Palmella.*

Form of Passport for Portuguese Vessels destined for the lawful Traffic in Slaves.

Passport for Portuguese Vessels.

(Place for the royal arms.)

I, minister and secretary of state for the affairs of the marine and transatlantic dominions, &c. &c. &c.

[*or*, governor of this province], [*or*, secretary of the government of *Portugal*], make known to those that shall see the present passport, that

No. II. 5 Geo. IV. c. 113.

the vessel called , of tons, and carrying men and passengers, master and owner *Portuguese* and subjects of the United Kingdom, is bound to the ports of and and coast of from whence she is to return to , the said master and owner having previously taken the required oath before the royal board of commerce of this capital (or the board of inspection of this province,) and having legally proved that no foreigner has any share in the above vessel and cargo, as appears by the certificate of that royal board (or board of inspection) which is annexed to this passport. The said master and owner of the said vessel being under an obligation to enter solely such ports on the coast of *Africa* where the slave trade is permitted to the subjects of the United Kingdom of *Portugal*, *Brazils*, *Algarves*, and to return from thence to any of the ports of this kingdom, where alone they shall be permitted to land the slaves whom they carry, after going through the proper forms, to show that they have in every respect complied with the provisions of the *Alvará* of the twenty-fourth of *November* one thousand eight hundred and thirteen, by which his Majesty was pleased to regulate the conveyance of slaves from the coast of *Africa* to his dominions of *Brazil*. And should they fail to execute any of these conditions, they shall be liable to the penalties denounced by the *Alvará* of* against those who shall carry on the slave trade in an illicit manner. And as in going or returning she may, either at sea or in port, meet officers of ships and vessels of the same kingdom, the King our Lord orders them not to give her any obstruction; and his Majesty recommends to the officers of the fleets, squadrons, and ships of the kings, princes, republics, and potentates, the friends and allies of the Crown, not to prevent her from prosecuting her voyage, but on the contrary to afford her any aid and accommodation she may want for continuing the same; being persuaded that those recommended by their princes will, on our part, experience the same treatment. In testimony of which his Majesty has ordered her to be furnished by me with this passport, signed and sealed with the great seal of the royal arms, which shall have validity only for and for one voyage alone.

Given in the Palace of the in the year after the birth of out Lord Jesus Christ.

(L. S.)

By order of his Excellency,

The officer who made out the passport.

This passport, numbered ( ), authorizes any number of slaves not exceeding being per ton, (as permitted by the *Alvará* of†) to be on board of this ship at one time, excepting always such slaves employed as sailors or domestics, and children born on board during the voyage.

[Signed as above, by the proper *Portuguese* authorities.]

(Signed) *Castlereagh.* (Signed) *The Count of Palmella.*

Instructions for British and Portuguese Ships of War.

Instructions intended for the British and Portuguese ships of war employed to prevent the illicit traffic in slaves.

Article the First.—Every *British* or *Portuguese* ship of war shall, in conformity with article five of the additional convention of this date, have a right to visit the merchant ships of either of the two powers actually engaged or suspected to be engaged in the slave trade; and should any slaves be found on board according to the tenor of the sixth article of the aforesaid additional convention,—and as to what regards the *Portuguese* vessels, should there be ground to suspect that the said slaves have been embarked on a part of the coast of *Africa* where the traffic in slaves can no longer be legally carried on, in consequence of the stipulations in force between the two high powers, in these cases alone the commander of the said ship of war

* This *Alvará* to be promulgated in pursuance of the third article of the additional convention of the 28th July 1817.

† That is to say, the *Alvará* of the 24th of November 1813, or any other *Portuguese* law which may hereafter be promulgated in lieu thereof.

may detain them; and having detained them, he is to bring them as soon as possible for judgment before that of the two mixed commissions appointed by the eighth article of the additional convention of this date, which shall be the nearest, or which the commander of the capturing ship shall upon his own responsibility think he can soonest reach from the spot where the slave ship shall have been detained.

Ships on board of which no slaves shall be found intended for purposes of traffic, shall not be detained on any account or pretence whatever.

Negro servants or sailors that may be found on board the said vessels cannot, in any case, be deemed a sufficient cause for detention.

Article the Second.—No merchantman or slave ship can, on any account or pretence whatever, be visited or detained whilst in the port or roadstead belonging to either of the two high contracting powers, or within cannon-shot of the batteries on shore. But in case suspicious vessels should be found so circumstanced, proper representations may be addressed to the authorities of the country, requesting them to take effectual measures for preventing such abuses.

Article the Third.—The high contracting powers having in view the immense extent of the shores of *Africa* to the north of the equator along which this commerce continues prohibited, and the facility thereby afforded for illicit traffic on points where either the total absence or at least the distance of lawful authorities bar ready access to those authorities, in order to prevent it, have agreed, for the more readily attaining the salutary end which they propose, to grant, and they do actually grant to each other the power without prejudice to the rights of sovereignty, to visit and detain, as if on the high seas, any vessel having slaves on board, even within cannon-shot of the shore of their respective territories on the continent of *Africa* to the north of the equator, in case of there being no local authorities to whom recourse might be had as has been stated in the preceding article. In such cases, vessels so visited may be brought before the mixed commissions, in the form prescribed in the first article of the preceding instructions.

Article the Fourth.—No *Portuguese* merchantman or slave ship shall, on any pretence whatever, be detained, which shall be found any where near the land or on the high seas, south of the equator, unless after a chace that shall have commenced north of the equator.

Article the Fifth.—*Portuguese* vessels furnished with a regular passport having slaves on board, shipped at those parts of the coast of *Africa* where the trade is permitted to *Portuguese* subjects, and which shall afterwards be found north of the equator, shall not be detained by the ships of war of the two nations, though furnished with the present instructions, provided the same can account for their course, either in conformity with the practice of the *Portuguese* navigation, by steering some degrees to the northward in search of fair winds, or for other legitimate causes, such as the dangers of the seas duly proved; or lastly, in the case of their passports proving that they were bound for a *Portuguese* port not within the continent of *Africa*: Provided always, that with regard to all slave ships detained to the north of the equator, the proof of the legality of the voyage is to be furnished by the vessel so detained. On the other hand, with respect to slave ships detained to the south of the equator, in conformity with the stipulations of the preceding article, the proof of the illegality of the voyage is to be exhibited by the captor.

It is in like manner stipulated, that the number of slaves found on board a slave ship by the cruizers, even should the number not agree with that contained in their passport, shall not be a sufficient reason to justify the detention of the ship; but the captain and the proprietor shall be denounced in the *Portuguese* tribunals in the *Brazils*, in order to their being punished according to the laws of the country.

Article the Sixth.—Every *Portuguese* vessel intended to be employed in the legal traffic in slaves, in conformity with the principles laid down in the additional convention of this date, shall be commanded by a native *Portuguese*, and two-thirds at least of the crew shall likewise be *Portuguese*:

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Provided always, that its *Portuguese* or foreign construction shall in no wise affect its nationality, and that the negro sailors shall always be reckoned as *Portuguese*, provided they belong, as slaves, to subjects of the Crown of *Portugal*, or that they have been enfranchised in the dominions of his most faithful Majesty.

Article the Seventh.—Whenever a ship of war shall meet a merchant vessel liable to be searched, it shall be done in the most mild manner, and with every attention which is due between allied and friendly nations; and in no case shall the search be made by any officer holding a rank inferior to that of lieutenant in the navy.

Article the Eighth.—The ships of war which may detain the slave ships, in pursuance of the principles laid down in the present instructions, shall leave on board all the cargo of negroes untouched, as well as the captain and a part at least of the crew of the above mentioned slave ship; the captain shall draw up in writing an authentic declaration, which shall exhibit the state in which he found the detained ship, and the changes which may have taken place in it; he shall deliver to the captain of the slave ship a signed certificate of the papers seized on board the said vessel, as well as of the number of slaves found on board at the moment of detention.

The negroes shall not be disembarked till after the vessels which contain them shall be arrived at the place where the legality of the capture is to be tried by one of the two mixed commissions, in order that in the event of their not being adjudged legal prize, the loss of the proprietors may be more easily repaired. If, however, urgent motives, deduced from the length of the voyage, the state of health of the negroes, or other causes, required that they should be disembarked entirely, or in part, before the vessels could arrive at the place of residence of one of the said commissions, the commander of the capturing ship may take on himself the responsibility of such disembarkation, provided that the necessity be stated in a certificate in proper form.

Article the Ninth.—No conveyance of slaves from one port of the *Brazils* to another, or from the continent or islands of *Africa* to the possessions of *Portugal* out of *America*, shall take place as objects of commerce, except in ships provided with passports from the *Portuguese* government *ad hoc*.

Done at *London*, the twenty-eighth day of *July*, in the year of our Lord one thousand eight hundred and seventeen.

(Signed) *Castlereagh.* (L. S.) (Signed) *The Count of Palmella.* (L. S.)

Regulations for Mixed Commissions, as to Portugal.

Regulations for the Mixed Commissions, which are to reside on the Coast of Africa, in the Brazils, and at London.

Article the First.—The mixed commissions to be established by the additional convention of this date, upon the coast of *Africa* and in the *Brazils*, are appointed to decide upon the legality of the detention of such slave vessels as the cruizers of both nations shall detain, in pursuance of this same convention, for carrying on an illicit commerce in slaves.

The above-mentioned commissions shall judge, without appeal, according to the letter and spirit of the treaty of the twenty-second of *January* one thousand eight hundred and fifteen, and of the additional convention to the said treaty, signed at *London*, on this twenty-eighth day of *July* one thousand eight hundred and seventeen.

The commissions shall give sentence as summarily as possible, and they are required to decide (as far as they shall find it practicable) within the space of twenty days, to be dated from that on which every detained vessel shall have been brought into the port where they shall reside, first, upon the legality of the capture; second, in the case in which the captured vessel shall have been liberated, as to the indemnification which she is to receive.

And it is hereby provided, that in all cases the final sentence shall not be delayed on the account of the absence of witnesses, or for want of other proofs, beyond the period of two months, except upon the application of

any of the parties interested, when upon their giving satisfactory security to charge themselves with the expence and risks of the delay, the commissioners may, at their discretion, grant an additional delay, not exceeding four months.

Article the Second.—Each of the above-mentioned mixed commissions, which are to reside on the coast of *Africa*, and in the *Brazils*, shall be composed in the following manner.

The two high contracting parties shall each of them name a commissary judge, and a commission of arbitration, who shall be authorized to hear and to decide, without appeal, all cases of capture of slave vessels which, in pursuance of the stipulation of the additional convention of this date, may be laid before them. All the essential parts of the proceedings carried on before these mixed commissions shall be written down in the language of the country in which the commission may reside.

The commissary judges and the commissioners of arbitration shall make oath, in presence of the principal magistrate of the place in which the commission may reside, to judge fairly and faithfully, to have no preference, either for the claimants or the captors, and to act, in all their decisions, in pursuance of the stipulations of the treaty of the twenty-second *January* one thousand eight hundred and fifteen, and of the additional convention of the said treaty.

There shall be attached to each commission a secretary or registrar, appointed by the sovereign of the country in which the commission may reside, who shall register all its Acts, and who, previous to his taking charge of his post, shall make oath in presence of at least one of the commissary judges, to conduct himself with respect for their authority, and to act with fidelity in all the affairs which may belong to his charge.

Article the Third.—The form of process shall be as follows:

The commissary judges of the two nations shall, in the first place, proceed to the examination of the papers of the vessel, and to receive the depositions on oath of the captain, and of two or three, at least, of the principal individuals on board of the detained vessel, as well as the declaration on oath of the captor, should it appear necessary in order to be able to judge and to pronounce if the said vessel has been justly detained or not, according to the stipulations of the additional convention of this date, and in order that, according to this judgment, it may be condemned or liberated: And in the event of the two commissary judges not agreeing on the sentence they ought to pronounce, whether as to the legality of the detention or the indemnification to be allowed, or on any other question which might result from the stipulations of the convention of this date,—they shall draw by lot the name of one of the two commissioners of arbitration, who, after having considered the documents of the process, shall consult with the above-mentioned commissary judges on the case in question, and the final sentence shall be pronounced conformably to the opinion of the majority of the above-mentioned commissary judges, and of the above-mentioned commissioner of arbitration.

Article the Fourth.—As often as the cargo of slaves found on board of a *Portuguese* slave ship shall have been embarked on any point whatever of the coast of *Africa* where the slave trade continues lawful to the subjects of the Crown of *Portugal*, such slave ship shall not be detained on pretext that the above-mentioned slaves have been brought originally by land from any other part whatever of the continent.

Article the Fifth.—In the authenticated declaration which the captor shall make before the commission, as well as in the certificate of the papers seized, which shall be delivered to the captain of the captured vessel at the time of the detention, the above-mentioned captor shall be bound to declare his name, the name of his vessel, as well as the latitude and longitude of the place where the detention shall have taken place, and the number of slaves found living on board of the slave ship at the time of the detention.

Article the Sixth.—As soon as sentence shall have been passed, the detained vessel, if liberated, and what remains of the cargo, shall be restored to the proprietors, who may before the same commission claim a valuation

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of the damages which they may have a right to demand; the captor himself, and in his default his government, shall remain responsible for the above-mentioned damages. The two high contracting parties bind themselves to defray, within the term of a year from the date of the sentence, the indemnifications which may be granted by the above-named commission, it being understood that these indemnifications shall be at the expence of the power of which the captor shall be a subject.

Article the Seventh.—In case of the condemnation of a vessel for an unlawful voyage she shall be declared lawful prize, as well as her cargo, of whatever description it may be, with the exception of the slaves who may be on board as objects of commerce; and the said vessel, as well as her cargo, shall be sold by public sale, for the profit of the two governments; and as to the slaves, they shall receive from the mixed commission a certificate of emancipation, and shall be delivered over to the government on whose territory the commission which shall have so judged them shall be established, to be employed as servants or free labourers. Each of the two governments bind itself to guarantee the liberty of such portion of these individuals as shall be respectively consigned to it.

Article the Eighth.—Every claim for compensation of losses occasioned to ships suspected of carrying on illicit trade in slaves, not condemned as lawful prize by the mixed commissions, shall be also heard and judged by the above-named commissions, in the form provided by the third article of the present regulation; and in all cases wherein restitution shall be so decreed, the commission shall award to the claimant or claimants, or his or their lawful attorney or attornies, for his or their use, a just and complete indemnification:—First, for all costs of suit, and for all losses and damages which the claimant or claimants may have actually sustained by such capture and detention; that is to say, in case of total loss, the claimant or claimants shall be indemnified; first, for the ship, her tackle, apparel, and stores; secondly, for all freight due and payable; thirdly, for the value of the cargo of merchandize, if any; fourthly, for the slaves on board at the time of detention, according to the computed value of such slaves at the place of destination; deducting therefrom the usual fair average mortality for the unexpired period of the regular voyage; deducting also for all charges and expences payable upon the sale of such cargoes, including commission of sale when payable at such port; and, fifthly, for all other regular charges in cases of total loss; and in all other cases not of total loss, the claimant or claimants shall be indemnified,—first, for all special damages and expences occasioned to the ship by the detention, and for loss of freight when due or payable; secondly, a demurrage when due, according to the schedule annexed to the present article; thirdly, a daily allowance for the subsistence of slaves, of one shilling, or one hundred and eighty reis for each person, without distinction of sex or age, for so many days as it shall appear to the commission that the voyage has been or may be delayed by reason of such detention; as, likewise, fourthly, for any deterioration of cargo or slaves; fifthly, for any diminution in the value of the cargo or slaves, proceeding from an increased mortality beyond the average amount of the voyage, or from sickness occasioned by detention;—this value to be ascertained by their computed price at the place of destination, as in the above case of total loss; sixthly, an allowance of five *per cent.* on the amount of capital employed in the purchase and maintenance of cargo, for the period of delay occasioned by the detention; and seventhly, for all premium of insurance on additional risks.

The claimant or claimants shall likewise be entitled to interest at the rate of five *per cent. per annum* on the sum awarded, until paid by the government to which the capturing ship belongs; the whole amount of such indemnifications being calculated in the money of the country to which the captured ship belongs, and to be liquidated at exchange current at the time of award, excepting the sum for the subsistence of slaves, which shall be paid at par, as above stipulated.

The two high contracting parties wishing to avoid, as much as possible, every species of fraud in the execution of the additional convention of this

date, have agreed, that if it should be proved in a manner evident to the conviction of the judges of the two nations, and without having recourse to the decision of a commissioner of arbitration, that the captor has been led into error by a voluntary and reprehensible fault on the part of the captain of the detained ship; in that case only, the detained ship shall not have the right of receiving, during the days of her detention, the demurrage stipulated by the present article.

Schedule of demurrage or daily allowance

for a vessel of	100 tons to	120 inclusive	- £5	
121	ditto	150 ditto -	- 6	
151	ditto	170 ditto -	- 8	
171	ditto	200 ditto -	- 10	*per diem.*
201	ditto	220 ditto -	- 11	
221	ditto	250 ditto -	- 12	
251	ditto	270 ditto -	- 14	
271	ditto	300 ditto -	- 15	

and so in proportion.

Article the Ninth.—When the proprietors of a ship suspected of carrying on an illicit trade in slaves, released in consequence of a sentence of one of the mixed commissions (or in the case, as above-mentioned, of total loss,) shall claim indemnification for the loss of slaves which he may have suffered, he shall in no case be entitled to claim for more than the number of slaves which his vessel was by the *Portuguese* laws authorized to carry, which number shall always be declared in his passport.

Article the Tenth.—The mixed commission established in *London* by the article eleventh of the convention of this date, shall hear and determine all claims for *Portuguese* ships and cargoes captured by *British* cruizers on account of the unlawful trading in slaves, since the first of *June* one thousand eight hundred and fourteen, till the period when the convention of this date is to be in complete execution, awarding to them conformably to the article ninth of the additional convention of this date, a just and complete compensation, upon the basis laid down in the preceding article, either for total loss, or for losses and damages sustained by the owners and proprietors of the said ships and cargoes. The said commission established in *London* shall be composed and proceed exactly upon the same basis determined in the articles one two and three of the present regulations for the commissions established on the coast of *Africa* and the *Brazils*.

Article the Eleventh.—It shall not be permitted to any of the commissary judges, nor to the arbitrators, nor to the secretary of any of the mixed commissions, to demand or receive, from any one of the parties concerned in the sentences which they shall pronounce, any emolument, under any pretext whatsoever, for the performance of the duties which are imposed upon them by the present regulation

Article the Twelfth.—When the parties interested shall imagine they have cause to complain of any evident injustice on the part of the mixed commissions, they may represent it to their respective governments, who reserve to themselves the right of mutual correspondence for removing, when they think fit, the individuals who may compose these commissions.

Article the Thirteenth.—In the case of a vessel detained unjustly, under pretence of the stipulations of the additional convention of this date, and in which the captor should neither be authorized by the tenor of the above-mentioned convention, nor of the instructions annexed to it, the government to which the detained vessel may belong shall be entitled to demand reparation; and in such case, the government to which the captor may belong binds itself to cause the subject of complaint to be fully examined, and to inflict upon the captor, if he be found to have deserved it, a punishment proportioned to the transgression which may have been committed.

Article the Fourteenth.—The two high contracting parties have agreed, that in the event of the death of one or more of the commissioners, judges, and arbitrators, composing the above-mentioned mixed commissions, their posts shall be supplied, *ad interim*, in the following manner: on the part

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of the *British* government, the vacancies shall be filled successively in the commission which shall sit within the possessions of his *Britannic* Majesty, by the governor or lieutenant-governor resident in that colony, by the principal magistrate of the place, and by the secretary; and in the *Brazils* by the *British* consul and vice-consul resident in the city in which the mixed commission may be established.

On the part of *Portugal*, the vacancies shall be supplied, in the *Brazils*, by such persons as the captain-general of the province shall name for that purpose; and, considering the difficulty which the *Portuguese* government would feel, in naming fit persons to fill the post, which might become vacant in the commission established in the *British* possessions, it is agreed, that in case of the death of the *Portuguese* commissioners, judge, or arbitrators in those possessions, the remaining individuals of the above-mentioned commission shall be equally authorized to proceed to the judgment of such slave ships as may be brought before them, and to the execution of their sentence. In this case alone, however, the parties interested shall have the right of appealing from the sentence, if they think fit, to the commission resident in the *Brazils;* and the government to which the captor shall belong shall be bound fully to defray the indemnification which shall be due to them, if the appeal be judged in favour of the claimants; it being well understood, that the ship and cargo shall remain during this appeal in the place of residence of the first commission before whom they may have been conducted.

The high contracting parties have agreed to supply, as soon as possible, every vacancy that may arise in the above-mentioned commissions, from death or any other contingency. And in case that the vacancy of each of the *Portuguese* commissioners residing in the *British* possessions be not supplied at the end of six months, the vessels which are taken there to be judged, after the expiration of that time, shall no longer have the right of appeal herein-before stipulated.

Done at *London* the twenty-eighth day of *July*, in the year of our Lord one thousand eight hundred and seventeen.

(Signed) *Castlereagh.* (L. S.) (Signed) *The Count of Palmella.* (L. S.)

Separate Article.—As soon as the total abolition of the slave trade for the subjects of the crown of *Portugal* shall have taken place, the two high contracting parties hereby agree, by common consent, to adapt to that state of circumstances, the stipulations of the additional convention concluded at *London* the twenty-eighth of *July* last; but in default of such alterations, the additional convention of that date shall remain in force until the expiration of fifteen years from the day on which the general abolition of the slave trade shall so take place on the part of the *Portuguese* government.

The present separate article shall have the same force and validity as if it were inserted, word for word, in the additional convention aforesaid. It shall be ratified, and the ratifications shall be exchanged as soon as possible.

In witness whereof the respective plenipotentiaries have signed the same, and have thereunto affixed the seals of their arms.

Done at *London* this eleventh day of *September*, in the year of our Lord one thousand eight hundred and seventeen.

L. S. (Signed) *Castlereagh,* (L. S.) (Signed) *The Count of Palmella.*

Declaration as to Molembo and Cabinda, dated July 28, 1817.

Declaration, signed the Third Day of April One thousand eight hundred and nineteen, touching Molembo and Cabinda, as described in the Convention of the Twenty-eighth July One thousand eight hundred and seventeen, between His Majesty and His Most Faithful Majesty.

Whereas a convention, having for its object the prevention of the illicit traffic in slaves, was concluded between his *Britannic* Majesty and his most faithful Majesty, and signed at *London* on the 28th of *July* 1817:—

And whereas by the second article of that convention, the traffic in slaves was declared still to be permitted to *Portuguese* subjects only within certain territories therein described.

And whereas the territories of *Molembo* and *Cabinda* are described by that article to be on the eastern coast of *Africa;* and whereas this description is evidently a verbal mistake, the said territories of *Molembo* and *Cabinda* lying in fact upon the western and not upon the eastern coast of *Africa.*

It is hereby declared by the undersigned, that the word "eastern," in that part of the second article above alluded to, shall be held to be annulled, and the word "western" to stand in its place; and the latter part of the article in question shall accordingly be held to run thus:—

"The territories of *Molembo* and *Cabinda* upon the western coast of "*Africa,* from the fifth degree twelve minutes to the eighth degree south "latitude."

It was further agreed between the undersigned, that the present declaration shall be considered as an integral part of the said convention.

In witness and in faith of the above, the undersigned, his *Britannic* Majesty's secretary of state for foreign affairs, and his most faithful Majesty's envoy extraordinary and minister plenipotentiary at the court of *St. James's,* have hereunto set their hands and seals, at *London,* this third day of *April,* in the year of our Lord one thousand eight hundred and nineteen.

(L. S.) *Castlereagh.*

Additional Articles to the Convention between His Britannic Majesty and His Most Faithful Majesty, signed in London on the Twenty-eighth of July One thousand eight hundred and seventeen; signed at Lisbon Fifteenth March One thousand eight hundred and twenty-three.

Additional Articles to the Convention with Portugal, dated March 15, 1823.

His Majesty the King of the United Kingdom of *Great Britain* and *Ireland,* and his Majesty the King of the United Kingdom of *Portugal Brazils,* and *Algarves,* wishing to remove every obstacle to the faithful execution of the convention signed in *London* by their respective plenipotentiaries on the twenty-eighth of *July* one thousand eight hundred and seventeen, for the purpose of preventing their subjects from engaging in any illicit traffic in slaves, and seeing the necessity of adding, to that intent, certain articles to the said convention, have for this purpose named their plenipotentiaries; that is to say, his Majesty the King of the United Kingdom of *Great Britain* and *Ireland, Edward Michael Ward* esquire, his Chargé d'Affaires at the court of *Lisbon;* and his Majesty the King of the United Kingdom of *Portugal, Brazils,* and *Algarves, Joze Brazilio Rademaker* knight, professed in the order of Christ, and chief clerk of the department of state for foreign affairs; who, after having exchanged their respective full powers, found to be in good and due form, have agreed upon the following articles:—

Article the First.—Whereas it is stated in the first article of the instructions intended for the *British* and *Portuguese* ships of war employed to prevent the illicit traffic in slaves, that "ships on board of which no slaves "shall be found intended for the purpose of traffic, shall not be detained "on any account or pretence whatever:" And whereas it has been found by experience, that vessels employed in the illegal traffic have put their slaves momentarily on shore, immediately prior to their being visited by ships of war, and that such vessels have thus found means to evade forfeiture, and have been enabled to pursue their unlawful course with impunity, contrary to the true object and spirit of the convention of the twenty-eighth of *July* one thousand eight hundred and seventeen; the two high contracting parties therefore feel it necessary to declare, and it is hereby declared by them, that if there shall be clear and undeniable proof that a slave or slaves of either sex has or have been put on board a vessel for the purpose of illegal traffic in the particular voyage on which the vessel be captured, then and on that account according to the true intent and

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meaning of the stipulations of the above-mentioned convention such vessel shall be detained by the cruizers and finally condemned by the commissioners.

Article the Second.—Inasmuch as the convention of the twenty-eighth of *July* one thousand eight hundred and seventeen, does not stipulate the mode of supplying the absence of the commissioners occurring from any other cause besides that of death, which is the only case provided for by the fourteenth article of the regulation for the mixed commissions annexed to the said convention; the two high contracting parties have agreed, that in the event of the recal, or of the absence on account of illness, or any other unavoidable cause, of any of the commissioners judges or arbitrators or in the case of their absence in consequence of leave from their government, which must be notified to the respective commission, their posts shall be supplied in the same form and manner as is determined for the case of death by the above-mentioned fourteenth article of the said regulation.

These additional articles shall have the same force and effect as if they were inserted word for word in the said convention, and shall be considered as forming part of the same; they shall be ratified, and the ratifications thereof exchanged in *Lisbon*, within three months at latest after the date of their signature.

In witness whereof, the undersigned, being furnished with full powers to that effect, have signed these articles, and fixed thereunto the seals of their arms.

Done at *Lisbon*, this fifteenth day of *March*, in the year of our Lord one thousand eight hundred and twenty-three.

(L. S.) *E. M. Ward.*
(L. S.) *Joze Bazilio Rademaker.*

TREATY between his Britannic Majesty and his Catholic Majesty, for preventing their Subjects from engaging in any illicit Traffic in Slaves. Signed at Madrid, the Twenty-third of September One thousand eight hundred and seventeen.

Treaty with Spain, dated Sept. 23, 1817.

IN the name of the most Holy Trinity: It having been stated, in the second additional article of the treaty signed at *Madrid*, on the fifth day of *July* of the year one thousand eight hundred and fourteen, between his Majesty the King of the United Kingdom of *Great Britain* and *Ireland*, and his Majesty the King of *Spain* and the *Indies*, that "his Catholic Ma-"jesty concurs, in the fullest manner, in the sentiments of his *Britannic* "Majesty, with respect to the injustice and inhumanity of the traffic in "slaves, and promises to take into consideration, with the deliberation "which the state of his possessions in *America* demands, the means of "acting in conformity with those sentiments; and engages, moreover, "to prohibit his subjects from carrying on the slave trade, for the purpose "of supplying any islands or possessions, excepting those appertaining to "*Spain;* and to prevent, by effectual measures and regulations, the pro-"tection of the *Spanish* flag being given to foreigners who may engage in "this traffic, whether subjects of his *Britannic* Majesty, or any other state "or power."

And his Catholic Majesty, conformably to the spirit of this article, and to the principles of humanity with which he is animated, having never lost sight of an object so interesting to him, and being desirous of hastening the moment of its attainment, has resolved to co-operate with his *Britannic* Majesty in the cause of humanity, by adopting, in concert with his said Majesty, efficacious means for bringing about the abolition of the slave trade, for effectually suppressing illicit traffic in slaves on the part of their respective subjects, and for preventing *Spanish* ships trading in slaves conformably to law and to treaty from being molested or subjected to losses from *British* cruizers. The two high contracting parties have accordingly named as their plenipotentiaries, *viz.*—

His Majesty the King of the United Kingdom of *Great Britain* and *Ireland*, the right honourable Sir *Henry Wellesley*, a member of his Majesty's

most honourable privy council, knight grand cross of the most honourable order of the Bath, and his Majesty's ambassador extraordinary and plenipotentiary to his Catholic Majesty: and his Majesty the King of *Spain* and the *Indies*, *Don Josef Garcia de Leony Pizarro* knight grand cross of the royal and distinguished *Spanish* order of *Charles* Third, of that of *Saint Ferdinand* and of merit, of *Naples*, of those of *Saint Alexander Newsky* and of *Saint Anne*, of *Russia*, and of that of the red eagle, of *Prussia*, councillor of state, first secretary of state and of the general dispatch; who having exchanged their respective full powers, found to be in good and due form, have agreed upon the following articles:

Article the First.—His Catholic Majesty engages, that the slave trade shall be abolished throughout the entire dominions of *Spain* on the thirtieth day of *May* one thousand eight hundred and twenty, and that from and after that period it shall not be lawful for any of the subjects of the crown of *Spain* to purchase slaves or to carry on the slave trade on any part of the coast of *Africa*, upon any pretext or in any manner whatever; provided, however, that a term of five months from the said date of the thirtieth of *May* one thousand eight hundred and twenty, shall be allowed for completing the voyages of vessels which shall have cleared out lawfully previously to the said thirtieth of *May*.

Article the Second.—It is hereby agreed, that from and after the exchange of the ratifications of the present treaty, it shall not be lawful for any of the subjects of the crown of *Spain* to purchase slaves, or to carry on the slave trade on any part of the coast of *Africa* to the north of the equator, upon any pretext or in any manner whatever; provided, however, that a term of six months, from the date of the exchange of the ratifications of this treaty, shall be allowed for completing the voyages of vessels which shall have cleared out from *Spanish* ports for the said coast previously to the exchange of the said ratifications.

Article the Third.—His *Britannic* Majesty engages to pay, in *London*, on the twentieth of *February* one thousand eight hundred and eighteen, the sum of four hundred thousand pounds sterling, to such persons as his Catholic Majesty shall appoint to receive the same.

Article the Fourth.—The said sum of four hundred thousand pounds sterling is to be considered as a full compensation for all losses sustained by the subjects of his Catholic Majesty engaged in this traffic, on account of vessels captured previously to the exchange of the ratifications of the present treaty, as also for the losses which are a necessary consequence of the abolition of the said traffic.

Article the Fifth.—One of the objects of this treaty, on the part of the two governments, being mutually to prevent their respective subjects from carrying on an illicit slave trade;

The two high contracting parties declare, that they consider as illicit any traffic in slaves carried on under the following circumstances:

1st. Either by *British* ships, and under the *British* flag, or for the account of *British* subjects, by any vessel or under any flag whatsoever.

2d. By *Spanish* ships, upon any part of the coast of *Africa* north of the equator, after the exchange of the ratifications of the present treaty; provided, however, that six months shall be allowed for completing the voyages of vessels, conformably to the tenor of the second article of this treaty.

3d. Either by *Spanish* ships, and under the *Spanish* flag, or for the account of *Spanish* subjects by any vessel or under any flag whatsoever, after the thirtieth of *May* one thousand eight hundred and twenty, when the traffic in slaves, on the part of *Spain*, is to cease entirely: Provided always, that five months shall be allowed for the completion of voyages commenced in due time, conformably to the first article of this treaty.

4th. Under the *British* or *Spanish* flag for the account of the subjects of any other government.

5th. By *Spanish* vessels bound for any port not in the dominions of his Catholic Majesty.

No. II. 5 Geo. IV. c. 113.

Article the Sixth.—His Catholic Majesty will adopt, in conformity to the spirit of this treaty, the measures which are best calculated to give full and complete effect to the laudable objects which the high contracting parties have in view.

Article the Seventh.—Every *Spanish* vessel which shall be destined for the slave trade, in any part of the coast of *Africa* where this traffic still continues to be lawful, must be provided with a royal passport, conformable to the model annexed to the present treaty, and which model forms an integral part of the same. This passport must be written in the *Spanish* language, with an authentic translation in *English* annexed thereto; and it must be signed by his Catholic Majesty, and countersigned by the minister of marine, and also by the principal naval authority of the district, station, or port from whence the vessel clears out, whether in *Spain*, or in the colonial possessions of his Catholic Majesty.

Article the Eighth.—It is to be understood that this passport, for rendering lawful the voyages of slave ships, is required only for the continuation of the traffic to the south of the line; those passports which are now issued, signed by the first secretary of state of his Catholic Majesty, and in the form prescribed by the order of the sixteenth of *December* one thousand eight hundred and sixteen, remaining in full force for all vessels which may have cleared out for the coast of *Africa*, as well to the north as to the south of the line, previously to the exchange of the ratifications of the present treaty.

Article the Ninth.—The two high contracting parties, for the more complete attainment of the object of preventing all illicit traffic in slaves on the part of their respective subjects, mutually consent, that the ships of war of their royal navies which shall be provided with special instructions for this purpose, as herein-after mentioned, may visit such merchant vessels of the two nations as may be suspected, upon reasonable grounds, of having slaves on board acquired by an illicit traffic, and in the event only of their finding slaves on board may detain and bring away such vessels, in order that they may be brought to trial before the tribunals established for this purpose, as shall herein-after be specified.

Provided always, that the commanders of the ships of war of the two royal navies who shall be employed on this service shall adhere strictly to the exact tenor of the instructions which they shall receive for this purpose.

As this article is entirely reciprocal, the two high contracting parties engage mutually to make good any losses which their respective subjects may incur unjustly, by the arbitrary and illegal detention of their vessels.

It being understood that this indemnity shall invariably be borne by the government whose cruizer shall have been guilty of the arbitrary detention; provided always, that the visit and detention of slave ships specified in this article shall only be effected by those *British* or *Spanish* vessels which may form part of the two royal navies, and by those only of such vessels which are provided with the special instructions annexed to the present treaty.

Article the Tenth.—No *British* or *Spanish* cruizer shall detain any slave ship not having slaves actually on board; and in order to render lawful the detention of any ship, whether *British* or *Spanish*, the slaves found on board of such vessel must have been brought there for the express purpose of the traffic, and those on board of *Spanish* ships must have been taken from that part of the coast of *Africa* where the slave trade is prohibited, conformably to the tenor of the present treaty.

Article the Eleventh.—All ships of war of the two nations, which shall hereafter be destined to prevent the illicit traffic in slaves, shall be furnished by their own government with a copy of the instructions annexed to the present treaty, and which shall be considered as an integral part thereof.

These instructions shall be written in *Spanish* and *English*, and signed for the vessels of each of the two powers, by the minister of their respective marine.

The two high contracting parties reserve the faculty of altering the said instructions, in whole or in part, according to circumstances; it being however well understood, that the said alterations cannot take place but by common agreement, and by the consent of the two high contracting parties.

Article the Twelfth.—In order to bring to adjudication, with the least delay and inconvenience, the vessels which may be detained for having been engaged in an illicit traffic of slaves, there shall be established, within the space of a year at furthest from the exchange of the ratifications of the present treaty, two mixed commissions, formed of an equal number of individuals of the two nations, named for this purpose by their respective sovereigns.

These commissions shall reside, one in a possession belonging to his *Britannic* Majesty, the other within the territories of his Catholic Majesty; and the two governments, at the period of the exchange of the ratifications of the present treaty, shall declare, each for its own dominions, in what places the commissions shall respectively reside, each of the two high contracting parties reserving to itself the right of changing at its pleasure the place of residence of the commission held within its own dominions; provided, however, that one of the two commissions shall always be held upon the coast of *Africa*, and the other in one of the colonial possessions of his Catholic Majesty.

These commissions shall judge the causes submitted to them without appeal, and according to the regulation and instructions annexed to the present treaty, of which they shall be considered as an integral part.

Article the Thirteenth.—The acts or instruments annexed to this treaty, and which form an integral part thereof, are as follow:

No. 1. Form of passport for the *Spanish* merchant ships destined for the lawful traffic in slaves.

No. 2. Instructions for the ships of war of both nations destined to prevent the illicit traffic in slaves.

No. 3. Regulation for the mixed commissions which are to hold their sittings on the coast of *Africa*, and in one of the colonial possessions of his Catholic Majesty.

Article the Fourteenth.—The present treaty, consisting of fourteen articles, shall be ratified, and the ratifications exchanged at *Madrid*, within the space of two months from this date, or sooner if possible.

In witness whereof the respective plenipotentiaries have signed the same, and have thereunto affixed the seal of their arms.

Done at *Madrid* this twenty-third day of *September* in the year of our Lord one thousand eight hundred and seventeen.

(Signed) *Henry Wellesley.* (L. S.)

(Signed) *Jose Pizarro.* (L. S.)

Form of Passport for Spanish Vessels destined for the lawful Traffic in Slaves.

Passport for Spanish Vessels.

Ferdinand, by the grace of God, King of *Castille*, of *Leon*, of *Arragon*, of the Two *Sicilies*, of *Jerusalem*, of *Navarre*, of *Grenada*, of *Toledo*, of *Valencia*, of *Gallicia*, of *Majorca*, of *Minorca*, of *Seville*, of *Sardinia*, of *Cordova*, of *Corsica*, of *Murcia*, of *Jaen*, of the *Algarves*, of *Algesiras*, of *Gibraltar*, of the *Canary Islands*, of the *East* and *West Indies*, Isles, and *Terra Firma* of the Ocean; Archduke of *Austria*, Duke of *Burgundy*, of *Brabant*, and of *Milan*; Count of *Apsburgh*, *Flanders*, *Tirol*, and *Barcelona*; Lord of *Biscay* and of *Molina*, &c.

Whereas I have granted permission for the vessel called of tons, and carrying men and passengers, master and owner, both *Spaniards* and subjects of my crown, to proceed bound to the ports of and coast of *Africa*, from whence she is to return to , the said master and owner having previously taken the required oath before the tribunal of marine of the proper naval division from whence the said vessel sails, and legally proved that no foreigner has any share in the

No. II. 5 Geo. IV. c. 113.

above vessel and cargo, as appears by the certificate annexed to this passport; which certificate is given by the same tribunal in consequence of the steps taken in pursuance of the directions contained in the ordinance of matriculation of one thousand eight hundred and twenty-two.

The said captain and owner of the said vessel being under an obligation to enter solely such ports on the coast of *Africa* as are to the south of the line, and to return from thence to any of the ports of my dominions where alone they shall be permitted to land the slaves whom they carry, after going through the proper forms to show that they have in every respect complied with the provisions of my royal decree of one thousand eight hundred and seventeen, by which the mode of conveying slaves from the coast of *Africa* to my colonial dominions is regulated; and should they fail in any of these conditions, they shall be liable to the penalties denounced by the said decree against those who shall carry on the slave trade in an illicit manner.

I therefore command all general and other officers commanding my squadrons and ships, the captain-generals of the departments of marine, the military commandants of the provinces of the same, their subalterns, captains of the ports, and all other officers and persons belonging to the navy; the viceroys, captain-generals or commandants of kingdoms and provinces; the governors, mayors, and justices of the towns upon the sea coast of my dominions of *Indies;* the royal officers or judges of entries therein established, and all others of my subjects to whom it belongs or may belong, nor to give her any obstruction nor to occasion her any inconvenience or detention, but rather to aid her and to furnish her with whatever she may want for her regular navigation; and of the vassals and subjects of kings, princes, and republics, in friendship and alliance with me, of the commanders, governors, or chiefs of their provinces, fortresses, squadrons, and vessels, I require that they likewise shall not impede her in her free navigation, entry, departure, or detention in the ports to which by any accident she may be carried, but permit her to provide and supply herself therein with whatever she may be in need of; for which purpose I have commanded this passport to be made out; which, being signed for its validity by my secretary of state for the dispatch of marine, shall serve for the time that a voyage going and returning may last, after the conclusion of which it shall be returned to the commandant of marine, governor, or other person by whom it may have been issued, adding for its proper use the corresponding note.

Given at *Madrid*, on

I, The King.

(*Here the Signature of the Secretary of State and of the Dispatch of Marine.*)

Note.—This passport, No. authorizes any number of slaves, not exceeding being in the proportion of five slaves for every two tons (as permitted by the royal decree of 1817), excepting always such slaves employed as sailors or domestics, and children born on board during the voyage; and the same is issued by me the undersigned on the day of this date, made out in favour of who has previously conformed with all the formalities required by the royal decree of 1817, and is bound to return it immediately upon his return from the voyage.

Given at on the of of the year

(*Here the Signature of the principal Marine Authority of the Naval Division, Station, Province, or Port from whence the Vessel clears out.*)

(Signed) *Henry Wellesley.* (L. S.)

(Signed) *Jose Pizarro.* (L. S.)

No. II.
5 Geo. IV.
c. 113.

Instructions for the British and Spanish Ships of War employed to prevent the illicit Traffic in Slaves.

Instructions for British and Spanish Ships of War.

Article the First.—Every *British* or *Spanish* ship of war shall, in conformity with article the ninth of the treaty of this date, have a right to visit the merchant ships of either of the two powers actually engaged or suspected to be engaged in the slave trade; and should any slaves be found on board, according to the tenor of the tenth article of the aforesaid treaty; and as to what regards the *Spanish* vessels, should there be ground to suspect that the said slaves have been embarked on a part of the coast of *Africa* where the traffic is no longer permitted, conformably to the articles first and second of the treaty of this date; in these cases alone the commander of the said ship of war may detain them; and having detained them, he is to bring them, as soon as possible, for judgment, before that of the two mixed commissions appointed by the twelfth article of the treaty of this date which shall be the nearest, or which the commander of the capturing ship shall, upon his own responsibility, think he can soonest reach from the spot where the slave ship shall have been detained.

Ships on board of which no slaves shall be found, intended for purposes of traffic, shall not be detained on any account or pretence whatever.

Negro servants or sailors that may be found on board the said vessels cannot, in any case, be deemed a sufficient cause of detention.

Article the Second.—No *Spanish* merchantman or slave ship shall on any pretence whatever be detained, which shall be found any where near the land, or on the high seas, south of the equator, during the period for which the traffic is to remain lawful, according to the stipulations subsisting between the high contracting parties, unless after a chace that shall have commenced north of the equator.

Article the Third.—*Spanish* vessels furnished with a regular passport, having slaves on board, shipped at those parts of the coast of *Africa* where the trade is permitted to *Spanish* subjects, and which shall afterwards be found north of the equator, shall not be detained by the ships of war of the two nations, though furnished with the present instructions, provided the same can account for their course, either in conformity with the practice of the *Spanish* navigation, by steering some degrees to the northward in search of fair winds, or for other legitimate causes, such as the dangers of the sea, duly proved: Provided always, that with regard to all slave ships detained to the north of the equator, after the expiration of the term allowed, the proof of the legality of the voyage is to be furnished by the vessel so detained. On the other hand, with respect to slave ships detained to the south of the equator, in conformity with the stipulations of the preceding article, the proof of the illegality of the voyage is to be exhibited by the captor.

It is in like manner stipulated, that the number of slaves found on board a slave ship by the cruizers, even should the number not agree with that contained in their passports, shall not be sufficient reason to justify the detention of the ship; but the captain and proprietor shall be denounced in the *Spanish* tribunals, in order to their being punished according to the laws of the country.

Article the Fourth.—Every *Spanish* vessel intended to be employed in the legal traffic in slaves, in conformity with the principles laid down in the treaty of this date, shall be commanded by a native *Spaniard;* and two-thirds, at least, of the crew shall likewise be *Spaniards:* Provided always, that the *Spanish* or foreign construction shall in nowise affect its nationality, and that the negro sailors shall always be reckoned as *Spaniards*, provided they belong, as slaves, to subjects of the crown of *Spain*, or that they have been enfranchised in the dominions of his Catholic Majesty.

Article the Fifth.—Whenever a ship of war shall meet a merchantman liable to be searched, it shall be done in the most mild manner, and with every attention which is due between allied and friendly nations; and in no case

No. II. 5 Geo. IV. c. 113.

shall the search be made by an officer holding a rank inferior to that of lieutenant in the navy of *Great Britain*, or of ensign of a ship of the line in the *Spanish* navy.

Article the Sixth.—The ships of war which may detain any slave ship, in pursuance of the principles laid down in the present instructions shall leave on board all the cargo of negroes untouched, as well as the captain, and a part, at least, of the crew of the above-mentioned slave ship; the captain shall draw up in writing an authentic declaration, which shall exhibit the state in which he found the detained ship, and the changes which may have taken place in it; he shall deliver to the captain of the slave ship a signed certificate of the papers seized on board of the said vessel, as well as of the number of slaves found on board at the moment of detention.

The negroes shall not be disembarked till after the vessels which contain them shall be arrived at the place where the legality of the capture is to be tried by one of the two mixed commissions, in order that, in event of their not being adjudged legal prize, the loss of the proprietors may be more easily repaired. If, however, urgent motives, deduced from the length of the voyage, the state of health of the negroes, or other causes, required that they should be disembarked entirely, or in part, before the vessel could arrive at the place of residence of one of the said commissions, the commander of the capturing ship may take on himself the responsibility of such disembarkation, provided that the necessity be stated in a certificate in proper form.

Article the Seventh.—No conveyance of slaves from one part in the *Spanish* possessions to another shall take place, except in ships provided with passports from the government on the spot, *ad hoc*.

Done at *Madrid*, the twenty-third day of *September* in the year of our Lord one thousand eight hundred and seventeen.

(L. S.) *Henry Wellesley.* (L. S.) *Jose Pizarro.*

Regulations for Mixed Commissions as to Spain.

Regulations for the Mixed Commissions, which are to reside on the Coast of Africa, and in a Colonial Possession of His Catholic Majesty.

Article the First.—The mixed commissions to be established by the treaty of this date upon the coast of *Africa* and in a colonial possession of his Catholic Majesty, are appointed to decide upon the legality of the detention of such slave vessels as the cruizers of both nations shall detain, in pursuance of this same treaty, for carrying on an illicit commerce in slaves.

The above-mentioned commissions shall judge, without appeal, according to the letter and spirit of the treaty of this date.

The commissions shall give sentence as summarily as possible, and they are required to decide (as far as they shall find it practicable) within the space of twenty days, to be dated from that on which every detained vessel shall have been brought into the port where they shall reside; first, upon the legality of the capture; second, in the case in which the captured vessels shall have been liberated, as to the indemnifications which she is to receive.

And it is hereby provided, that in all cases the final sentence shall not be delayed on account of the absence of witnesses, or for want of other proofs, beyond the period of two months, except upon the application of any of the parties interested, when, upon their giving satisfactory security to charge themselves with the expence and risks of the delay, the commissioners may, at their discretion, grant an additional delay not exceeding four months.

Article the Second.—Each of the above-mentioned mixed commissions which are to reside on the coast of *Africa* and in a colonial possession of his Catholic Majesty, shall be composed in the following manner:

The two high contracting parties shall each of them name a commissary judge and a commissioner of arbitration, who shall be authorized to hear and to decide, without appeal, all cases of capture of slave vessels which,

in pursuance of the stipulations of the treaty of this date, may be laid before them. All the essential parts of the proceedings carried on before these mixed commissions shall be written down in the legal language of the country in which the commission may reside.

The commissary judges and the commissioners of arbitration shall make oath, in presence of the principal magistrate of the place in which the commission may reside, to judge fairly and faithfully, to have no preference either for the claimants or the captors, and to act in all their decisions in pursuance of the stipulations of the treaty of this date.

There shall be attached to each commission a secretary or registrar appointed by the sovereign of the country in which the commission may reside, who shall register all its acts, and who, previous to his taking charge of his post, shall make oath, in presence of at least one of the commissary judges, to conduct himself with respect to their authority, and to act with fidelity in all the affairs which may belong to his charge.

Article the Third.—The form of the process shall be as follows:

The commissary judges of the two nations shall in the first place proceed to the examination of the papers of the vessel, and to receive the depositions on oath of the captain and of two or three at least of the principal individuals on board of the detained vessel as well as the declaration on oath of the captor, should it appear necessary, in order to be able to judge and to pronounce if the said vessel has been justly detained or not, according to the stipulations of the treaty of this date, and in order that, according to this judgment, it may be condemned or liberated. And in the event of the two commissary judges not agreeing on the sentence they ought to pronounce whether as to the legality of the detention, or the indemnification to be allowed, or on any other question which might result from the stipulations of the treaty of this date, they shall draw by lot the name of one of the two commissioners of arbitration who, after having considered the documents of the process, shall consult with the above-mentioned commissary judges on the case in question, and the final sentence shall be pronounced conformably to the opinion of the majority of the above-mentioned commissary judges and of the above-mentioned commissioner of arbitration.

Article the Fourth.—As often as the cargo of slaves found on board of a *Spanish* slave ship shall have been embarked on any point whatever of the coast of *Africa* where the slave trade continues to be lawful, such slave ship shall not be detained on pretext that the above-mentioned slaves have been brought originally by land from any other part whatever of the continent.

Article the Fifth.—In the authenticated declaration which the captor shall make before the commission as well as in the certificate of the papers seized, which shall be delivered to the captain of the captured vessel at the time of the detention, the above-mentioned captor shall be bound to declare his name, the name of his vessel, as well as the latitude and longitude of the place where the detention shall have taken place, and the number of slaves found living on board of the slave ship at the time of the detention.

Article the Sixth.—As soon as sentence shall have been passed, the detained vessel, if liberated, and what remains of the cargo shall be restored to the proprietors, who may before the same commission claim a valuation of the damages which they may have a right to demand; the captor himself, and in his default his government, shall remain responsible for the above-mentioned damages.

The two high contracting parties bind themselves to defray, within the term of a year from the date of the sentence, the indemnifications which may be granted by the above-named commission, it being understood that these indemnifications shall be at the expence of the power of which the captor shall be a subject.

Article the Seventh.—In case of the condemnation of a vessel for an unlawful voyage, she shall be declared lawful prize as well as her cargo, of whatever description it may be, with the exception of the slaves who

No. II. 5 Geo. IV. c. 113.

may be on board as objects of commerce; and the said vessel as well as her cargo shall be sold by public sale for the profit of the two governments; and as to the slaves, they shall receive from the mixed commission a certificate of emancipation, and shall be delivered over to the government on whose territory the commission which shall have so judged them shall be established, to be employed as servants or free labourers. Each of the two governments binds itself to guarantee the liberty of these individuals as shall be respectively consigned to it.

Article the Eighth.—Every claim for compensation of losses occasioned to ships suspected of carrying on an illicit trade in slaves, not condemned as lawful prize by the mixed commission, shall also be heard and judged by the above-named commissions in the form provided by the third article of the present regulation; and in all cases wherein restitution shall be so decreed the commission shall award to the claimant or claimants or his or their lawful attorney or attornies, for his or their use, a just and complete indemnification for all costs of suit and for all losses and damages which the claimant or claimants may have actually sustained by such capture and detention; that is to say, in case of total loss the claimant or claimants shall be indemnified—first, for the ship, her tackle, apparel, and stores; secondly, for all freight due and payable; thirdly, for the value of the cargo of merchandize, if any; fourthly, for the slaves on board at the time of detention, according to the computed value of such slaves at the place of destination, deducting therefrom the usual fair average mortality for the unexpired period of the regular voyage; deducting also for all charges and expences payable upon the sale of such cargoes, including commission of sale; and fifthly, for all other regular charges in such cases of total loss: And in all other cases not of total loss, the claimant or claimants shall be indemnified—first, from all special damages and expences occasioned to the ship by the detention and for loss of freight when due or payable; secondly, a demurrage when due according to the schedule annexed to the present article; thirdly, a daily allowance for the subsistence of slaves, of one shilling or four reals and half de vor for each person without distinction of sex or age, for so many days as it shall appear to the commission that the voyage has been or may be delayed by reason of such detention; as likewise, fourthly, for any deterioration of cargo or slaves; fifthly, for any diminution in the value of the cargo of slaves, proceeding from an increased mortality beyond the average amount of the voyage or from sickness occasioned by detention; this value to be ascertained by their computed price at the place of destination, as in the above case of total loss; sixthly, an allowance of five *per cent.* on the amount of the capital employed in the purchase and maintenance of cargo for the period of delay occasioned by the detention; and seventhly, for all premium of insurance on additional risks.

The claimant or claimants shall likewise be entitled to interest at the rate of five *per cent. per annum* on the sum awarded, until paid by government to which the capturing ship belongs; the whole amount of such indemnification being calculated in the money of the country to which the captured ship belongs, and to be liquidated at the exchange current at the time of award, excepting the sum for the subsistence of slaves, which shall be par, as above stipulated.

The two high contracting parties wishing to avoid as much as possible every species of fraud in the execution of the treaty of this date, have agreed, that if it should be proved in a manner evident to the conviction of the commissary judges of the two nations, and without having recourse to the decision of a commissioner of arbitration, that the captor has been led into error by a voluntary and reprehensible fault on the part of the captain of the detained ship; in that case only the detained ship shall not have the right of receiving, during the days of her detention, the demurrage stipulated by the present article.

Schedule of demurrage or daily allowance

for a vessel of	100 tons to	120	inclusive,	£5	*per diem.*
121	ditto	150	ditto	6	
151	ditto	170	ditto	8	
171	ditto	200	ditto	10	
201	ditto	220	ditto	11	
221	ditto	250	ditto	12	
251	ditto	270	ditto	14	
271	ditto	300	ditto	15	

and so in proportion.

Article the Ninth.—When the proprietor of a ship suspected of carrying on an illicit trade in slaves, released in consequence of a sentence of one of the mixed commissions (or in the case, as above mentioned, of total loss), shall claim indemnification for the loss of slaves which he may have suffered, he shall in no case be entitled to claim for more than the number of slaves which his vessel by the *Spanish* laws was authorized to carry, which number shall always be stated in his passport.

Article the Tenth.—Neither the judges nor the arbitrators, nor the secretary of the mixed commissions shall be permitted to demand or receive from any of the parties concerned in the sentences which they shall pronounce, any emolument, under any pretext whatsoever, for the performance of the duties which are imposed upon them by the present regulation.

Article the Eleventh.—When the parties interested shall imagine they have cause to complain of any evident injustice on the part of the mixed commissions they may represent it to their respective governments, who reserve to themselves the right of mutual correspondence for the purpose of removing, when they think fit, the individuals who may compose these commissions.

Article the Twelfth.—In case of a vessel being improperly detained, under pretence of the stipulations of the treaty of this date, and the captor not being enabled to justify himself either by the tenor of the said treaty or of the instructions annexed to it, the government to which the detained vessel may belong shall be entitled to demand reparation; and in such case the government to which the captor may belong binds itself to cause inquiry to be made into the subject of the complaint, and to inflict upon the captor, if he be found to have deserved it, a punishment proportioned to the transgression which may have been committed.

Article the Thirteenth.—The two high contracting parties have agreed that in the event of the death of one or more of the commissary judges or the commissioners of arbitration composing the above-mentioned mixed commissions, their posts shall be supplied, *ad interim*, in the following manner:

On the part of the *British* government, the vacancies shall be filled successively in the commission which shall sit within the possessions of his *Britannic* Majesty, by the governor or lieutenant governor resident in that colony, by the principal magistrate of the same, and by the secretary; and in that which shall sit within the possessions of his Catholic Majesty, it is agreed, that, in case of the death of the *British* judge or arbitrator there, the remaining individuals of the said commission shall proceed equally to the judgment of such slave ships as may be brought before them, and to the execution of their sentence. In this case alone however, the parties interested shall have the right of appealing from the sentence, if they think fit, to the commission resident upon the coast of *Africa;* and the government to which the captor shall belong shall be bound fully to make good the compensation which shall be due to them in case the appeal be decided in favour of the claimants; but the vessel and cargo shall remain, during such appeal, in the place of residence of the first commission before which they shall have been carried.

On the part of *Spain*, the vacancies shall be supplied, in the possession of his Catholic Majesty, by such persons of trust as the principal autho-

No. II. 5 Geo. IV. c. 113.

rity of the country shall appoint; and upon the coast of *Africa*, in case of the death of any *Spanish* judge or arbitrator, the commission shall proceed to judgment in the same manner as above specified for the commission resident in the possessions of his Catholic Majesty, in the event of the death of the *British* judge or arbitrator; an appeal being, in this case likewise, allowed to the commission resident in the possession of his Catholic Majesty; and in general, all the provisions of the former case being to be applied to the present.

The high contracting parties have agreed to supply, as soon as possible, the vacancies that may arise in the above-mentioned commissions, from death or any other cause; and in case that the vacancy of any of the *Spanish* commissioners in the *British* possessions, or of the *British* commissions in the *Spanish* possessions, be not supplied at the end of the term of seven months for *America*, and of twelve for *Africa*, the vessels which shall be brought to the said possessions respectively, shall cease to have the right of appeal above stipulated.

Done at *Madrid*, the twenty-third day of *September* in the year of our Lord one thousand eight hundred and seventeen.

(L. S.) *Henry Wellesley.* (L. S.) *Jose Pizarro.*

Explanatory Article to Treaty with Spain, dated Sept. 23, 1817.

Explanatory Article to the Treaty between His Majesty the King of the United Kingdom of Great Britain and Ireland and His Majesty the King of the Spains, concluded and signed at Madrid, September the Twenty-third One thousand eight hundred and seventeen.

Whereas it is stated in Article I. of the "Instructions intended for *British* and *Spanish* ships of war employed to prevent the illicit Traffic in Slaves," that "ships on board of which no slaves shall be found, intended for purposes of traffic, shall not be detained on any account or pretence whatever:" And whereas it has been found by experience, that vessels employed in the illegal traffic have put their slaves momentarily on shore, immediately prior to their being visited by ships of war, and that such vessels have thus found means to evade forfeiture, and have been enabled to pursue their unlawful course with impunity, contrary to the true object and spirit of the treaty above mentioned:

The high contracting parties therefore feel it necessary to declare, and it is hereby declared by them, that if there shall be clear and undeniable proof that a slave or slaves has or have been put on board a vessel, for the purpose of illegal traffic, in the particular voyage on which the vessel shall be captured, then, and on that account, according to the true intent and meaning of the stipulations of the treaty, such vessel shall be detained by the cruizers, and finally condemned by the commissioners.

This explanatory article shall have the same force and effect as if it were inserted word for word in the said treaty, and shall be held to form part of the same.

In witness whereof the undersigned, furnished with full powers to that effect, have hereunto signed their names, and affixed their seals.

Done at *Madrid*, the tenth day of *December* one thousand eight hundred and twenty-two.

(L. S.) *William A'Court.*

Additional Article to Treaty with Spain, Sept. 23, 1817.

Additional Article to the Treaty between His Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the Spains, signed at Madrid, September the Twenty-third One thousand eight hundred and seventeen.

The high contracting parties hereby agree, that in the event of the absence, on account of illness or of any other unavoidable cause, of one or more of the commissioners judges and arbitrators under the above-mentioned treaty, or in the case of their absence in consequence of leave from their government, duly notified to the board of commission sitting under

the said treaty, their posts shall be supplied in the same manner in which by the fourteenth article of the regulations for the mixed commission, those vacancies in the commission are to be supplied which may occur by the death of one or more of the commissioners aforesaid.

This article shall have the same force and effect as if it had been inserted word for word in the above-mentioned treaty, and shall be held to form part of the same.

In witness whereof the undersigned, duly furnished with full powers to that effect, have signed the present additional article, and have affixed thereunto the seal of their arms.

Done at *Madrid* the tenth day of *December* one thousand eight hundred and twenty-two.

(L. S.) *William A' Court.*

Declaration Explanatory of Article to Treaty with Spain, Dec. 10, 1822.

Declaration explanatory of the Additional Article between Great Britain and Spain, signed at Madrid, December Tenth One thousand eight hundred and twenty-two.

Whereas in the additional article to the treaty for preventing an illegal commerce in slaves, signed at *Madrid* the tenth of *December* one thousand eight hundred and twenty-two, a reference is made by a mistake of the copyist to the fourteenth instead of the thirteenth article of the regulations for the mixed commissions: We the undersigned, fully authorized to that effect, do hereby agree and declare, that the reference aforesaid shall be considered as applying to the thirteenth article, according to the evident intention of the high contracting parties.

Done at *Madrid* this second day of *February* one thousand eight hundred and twenty-four.

(Signed) { (L. S.) *William A'Court.* (L. S.) *El Conde De Ofalia.*

Treaty with the Netherlands, dated May 4, 1818.

TREATY between His Britannic Majesty and His Majesty the King of the Netherlands, for preventing their Subjects from engaging in any Traffic in Slaves. Signed at the Hague, May Fourth One thousand eight hundred and eighteen.

IN the name of the most Holy Trinity:—His Majesty the King of the United Kingdom of *Great Britain*, and *Ireland*, and his Majesty the King of the *Netherlands*, animated with a mutual desire to adopt the most effectual measures for putting a stop to the carrying on of the slave trade by their respective subjects, and for preventing their respective flags from being made use of as a protection to this nefarious traffic by the people of other countries who may engage therein; their said Majesties have accordingly resolved to proceed to the arrangement of a convention for the attainment of their objects, and have therefore named as plenipotentiaries, *ad hoc*,

His Majesty the King of the United Kingdom of *Great Britain* and *Ireland*, the right honourable *Richard* Earl of *Clancarty*, Viscount *Dunlo*, Baron *Kilconnel*, Baron *Trench* of *Garbally* in the United Kingdom of *Great Britain* and *Ireland*, one of his Majesty's most honourable privy council in *Great Britain* and also in *Ireland*, member of the committee of the first for the affairs of commerce and colonies, colonel of the regiment of militia of the county of *Galway*, knight grand cross of the most honourable order of the Bath, ambassador extraordinary and plenipotentiary of his said Majesty to his Majesty the King of the *Netherlands*, Grand Duke of *Luxembourg*; and his Majesty the King of the *Netherlands*, *Anne William Charles* Baron *de Nagell d'Ampsen*, member of the body of nobles of the province of *Guelderland*, knight grand cross of the order of the *Belgic* Lion and of that of *Charles* the Third, chamberlain and minister of state holding the department of foreign affairs; and *Cornelius Felix Van Maanen*, commander of the order of the *Belgic* Lion, and

No. II. 5 Geo. IV. c. 113.

minister of state holding the department of justice; who, having exchanged their full powers, found in good and due form, have agreed on the following articles:

Article the First.—The laws of the United Kingdom of *Great Britain* and *Ireland* rendering it already highly penal for the subjects of his *Britannic* Majesty to carry on, or to be in any way engaged in trade in slaves, his Majesty the King of the *Netherlands*, referring to the eighth article of the convention entered into with his *Britannic* Majesty on the thirteenth *August* one thousand eight hundred and fourteen, engages in pursuance thereof, and within eight months from the ratification of these presents, or sooner if possible, to prohibit all his subjects, in the most effectual manner, and especially by penal law the most formal, to take any part whatever in the trade of slaves: and in the event of the measures already taken by the *British* government, and to be taken by that of the *Netherlands*, being found ineffectual or insufficient, the high contracting parties mutually engage to adopt such further measures, whether by legal provision or otherwise, as may from time to time appear to be best calculated in the most effectual manner to prevent all their respective subjects from taking any share whatever in this nefarious traffic.

Article the Second.—The two high contracting parties, for the more complete attainment of the object of preventing all traffic in slaves on the part of their respective subjects, mutually consent that the ships of their royal navies, which shall be provided with special instructions for this purpose, as herein-after mentioned, may visit such merchant vessels of the two nations as may be suspected upon reasonable grounds of having slaves on board for an illicit traffic; and in the event only of their finding such slaves on board, may detain and bring away such vessels, in order that they may be brought to trial before the tribunals established for this purpose, as shall herein-after be specified.

Article the Third.—In the intention of explaining the mode of execution of the preceding article, it is agreed,

1st. That such reciprocal right of visit and detention shall not be exercised within the *Mediterranean* sea, or within the seas in *Europe* lying without the Straits of *Gibraltar*, and which lie to the northward of the thirty-seventh parallel of north latitude, and also within and to the eastward of the meridian of longitude twenty degrees west of *Greenwich*.

2d. That the names of the several vessels furnished with such instructions, the force of each and the names of their several commanders, shall be from time to time, immediately upon their issue, communicated by the power issuing the same to the other high contracting party.

3d. That the number of ships of each of the royal navies authorized to make such visits as aforesaid, shall not exceed the number of twelve belonging to either of the high contracting parties, without the special consent of the other high contracting party being first had and obtained.

4th. That if at any time it should be deemed expedient that any ship of the royal navy of either of the two high contracting parties, authorized to make such visits as aforesaid, should proceed to visit any merchant ship or ships under the flag, and proceeding under the convoy of any vessel or vessels of the royal navy of the other high contracting party, that the commanding officer of the ship, duly authorized and instructed to make such visit, shall proceed to effect the same in communication with the commanding officer of the convoy, who it is hereby agreed shall give every facility to such visit, and to the eventual detainer of the merchant ship or ships so visited, and in all things assist to the utmost of his power in the due execution of the present convention, according to the true intent and meaning thereof.

5th. It is further mutually agreed, that the commanders of the ships of the two royal navies, who shall be employed on this service, shall adhere strictly to the exact tenor of the instructions which they shall receive for this purpose.

Article the Fourth.—As the two preceding articles are entirely reciprocal, the two high contracting parties engage mutually to make good any

losses which their respective subjects may incur unjustly, by the arbitrary and illegal detention of their vessels; it being understood that this indemnity shall invariably be borne by the government whose cruizer shall have been guilty of the arbitrary detention; and that the visit and detention of ships specified in this article, shall only be effected by those *British* or *Netherland* vessels which may form part of the two royal navies, and by those only of such vessels which are provided with the special instructions annexed to the present treaty, in pursuance of the provisions thereof.

Article the Fifth.—No *British* or *Netherland* cruizer shall detain any ship whatever not having slaves actually on board; and in order to render lawful the detention of any ship, whether *British* or *Netherland*, the slaves found on board such vessel must have been brought there for the express purpose of the traffic.

Article the Sixth.—All ships of the royal navies of the two nations, which shall hereafter be destined to prevent the traffic in slaves, shall be furnished by their respective governments with a copy of the instructions annexed to the present treaty, and shall be considered as an integral part thereof.

These instructions shall be written in the *Dutch* and *English* languages, and signed for the vessels of each of the two powers by the minister of their respective marine.

The two high contracting parties reserve the faculty of altering the said instructions, in whole or in part, according to circumstances; it being however well understood that the said alterations cannot take place but by common agreement, and by the consent of the two high contracting parties.

Article the Seventh.—In order to bring to adjudication, with the least delay and inconvenience, the vessels which may be detained for having been engaged in a traffic of slaves, according to the tenor of the fifth article of this treaty, there shall be established, within the space of a year at furthest from the exchange of the ratifications of the present treaty, two mixed courts of justice, formed of an equal number of individuals of the two nations, named for this purpose by their respective sovereigns.

These courts shall reside, one in a possession belonging to his *Britannic* Majesty, the other within the territories of his Majesty the King of the *Netherlands;* and the two governments, at the period of the exchange of the ratifications of the present treaty, shall declare, each for its own dominions, in what places the courts shall respectively reside. Each of the two high contracting parties reserving to itself the right of changing, at its pleasure the place of residence of the court held within its own dominions; provided, however, that one of the two courts shall always be held upon the coast of *Africa*, and the other in one of the colonial possessions of his Majesty the King of the *Netherlands*.

The courts shall judge the causes submitted to them according to the terms of the present treaty, without appeal, and according to the regulations and instructions annexed to the present treaty, of which they shall be considered as an integral part.

Article the Eighth.—In case the commanding officer of any of the ships of the royal navies of *Great Britain* and of the *Netherlands*, commissioned under the second article of this treaty, shall deviate in any respect from the dispositions of the said treaty, and shall not be enabled to justify himself, either by the tenor of the said treaty, or of the instructions annexed to it, the government which shall conceive itself to be wronged by such conduct shall be entitled to demand reparation; and in such case the government to which the captor may belong binds itself to cause inquiry to be made into the subject of the complaint, and to inflict upon the captor, if he be found to have deserved it, a punishment proportioned to the transgression which may have been committed.

Article the Ninth.—The acts or instruments annexed to this treaty, and which form an integral part thereof, are as follow:

A. Instructions for the ships of the royal navies of both nations destined to prevent the traffic in slaves.

No. II. 5 Geo. IV. c. 113.

B. Regulation for the mixed courts of justice, which are to hold their sittings on the coast of *Africa*, and in one of the colonial possessions of his Majesty the King of the *Netherlands*.

Article the Tenth.—The present treaty, consisting of ten articles, shall be ratified, and the ratifications exchanged within the space of one month from this date, or sooner if possible.

In witness whereof the respective plenipotentiaries have signed the same, and thereunto affixed the seal of their arms.

Done at the *Hague* this fourth day of *May* in the year of our Lord one thousand eight hundred and eighteen.

(Signed)

Clancarty. (L. S.)
A. W. C. De Nagell. (L. S.)
Van Maanen. (L. S.)

Annexes.

Instructions for British and Netherland Ships.

Instructions for the Ships of the British and Netherland Royal Navies, employed to prevent the Traffic in Slaves.

Article the First.—Every ship of the Royal *British* or *Netherland* navy, which, furnished with these instructions, shall, in conformity with the second article of the treaty of this date, have a right to visit the merchant ships of either of the two powers actually engaged or suspected to be engaged in the slave trade, may, except in the seas exempted by the third article of the said treaty, proceed to such visit, and should any slaves be found on board, brought there for the express purposes of the traffic, the commander of the said ship of the royal navy may detain them; and having detained them, he is to bring them as soon as possible, for judgment, before that of the two mixed courts of justice appointed by the seventh article of the treaty of this date, which shall be the nearest, or which the commander of the capturing ship shall, upon his own responsibility, think he can soonest reach from the spot where the ship shall have been detained.

Ships, on board of which no slaves shall be found intended for purposes of traffic, shall not be detained on any account or pretence whatever.

Negro servants or sailors that may be found on board the said vessels cannot in any case be deemed a sufficient cause for detention.

Article the Second.—Whenever a ship of the royal navy, so commissioned, shall meet a merchantman liable to be searched, it shall be done in the mildest manner, and with every attention which is due between allied and friendly nations; and in no case shall the search be made by an officer holding a rank inferior to that of lieutenant in the navies of *Great Britain* and of the *Netherlands*.

Article the Third.—The ships of the royal navies so commissioned, which may detain any merchant ship, in pursuance of the tenor of the present instructions, shall leave on board all the cargo, as well as the master, and a part at least of the crew of the above-mentioned ship; the captor shall draw up in writing an authentic declaration, which shall exhibit the state in which he found the detained ship, and the changes which may have taken place in it. He shall deliver to the master of the detained ship a signed certificate of the papers seized on board the said vessels, as well as of the number of slaves found on board at the moment of detention.

The negroes shall not be disembarked till after the vessels which contain them shall be arrived at the place where the legality of the capture is to be tried by one of the two mixed courts, in order that in the event of their not being adjudged legal prize, the loss of the proprietors may be more easily repaired. If, however, urgent motives, deduced from the length of the voyage, the state of health of the negroes, or other causes, required that they should be disembarked, entirely or in part, before the vessel

could arrive at the place of residence of one of the said courts, the commander of the capturing ship may take on himself the responsibility of such disembarkation, provided that the necessity be stated in a certificate in proper form.

Regulations for the Mixed Courts of Justice, which are to reside on the Coast of Africa, and in a Colonial Possession of His Majesty the King of the Netherlands.

Regulations for Mixed Courts, as to the Netherlands.

Article the First.—The mixed courts of justice to be established by the treaty of this date, upon the coast of *Africa* and in a colonial possession of his Majesty the King of the *Netherlands*, are appointed to decide upon the legality of the detention of such vessels as the cruizers of both nations shall detain in pursuance of this same treaty.

The above-mentioned courts shall judge definitively and without appeal according to the present treaty.

The proceeding shall take place as summarily as possible; the courts are required to decide, as far as they shall find it practicable, within the space of twenty days, to be dated from that on which every detained vessel shall have been brought into the port where they shall reside;—first, upon the legality of the capture;—secondly, in the cases in which the captured vessel shall have been liberated, as to the indemnification which the said vessel is to receive.

And it is hereby provided, that in all cases the final sentence shall not be delayed, on account of the absence of witnesses or for want of other proofs, beyond the period of two months, except upon the application of any of the parties interested, when, upon their giving satisfactory security to charge themselves with the expence and risks of the delay, the courts may at their discretion grant an additional delay, not exceeding four months.

Article the Second.—Each of the above-mentioned mixed courts, which are to reside on the coast of *Africa*, and in a colonial possession of his Majesty the King of the *Netherlands*, shall be composed in the following manner:

The two high contracting parties shall each of them name a judge and an arbitrator, who shall be authorized to hear and to decide, without appeal, all cases of capture of vessels which, in pursuance of the stipulations of the treaty of this date shall be brought before them. All the essential parts of the proceedings carried on before these mixed courts shall be written down in the legal language of the country in which the court may reside.

The judges and the arbitrators shall make oath before the principal magistrate of the place in which the courts may reside, to judge fairly and faithfully, to have no preference either for the claimants or the captors, and to act in all their decisions in pursuance of the stipulations of the treaty of this date.

There shall be attached to each court a secretary or registrar, appointed by the sovereign of the country in which the court may reside, who shall register all its Acts, and who, previous to his taking charge of his post, shall make oath before the court to conduct himself with respect for their authority, and to act with fidelity in all the affairs which may belong to his charge.

Article the Third.—The form of the process shall be as follows:

The judges of the two nations shall, in the first place, proceed to the examination of the papers of the vessels, and to receive the depositions of the captain, and of two or three at least of the principal individuals on board of the detained vessel, as well as the declaration on oath of the captor, should it appear necessary, in order to be able to judge and to pronounce whether the said vessel has been justly detained or not, according to the stipulations of the present treaty, and in order that, according to this judgment, it may be condemned or liberated; and in the event of the two judges not agreeing in the sentence they ought to pronounce, whether

as to the legality of the detention, or the indemnification to be allowed, or any other question which might result from the stipulations of the present treaty, they shall draw by lot the name of one of the two arbitrators, who, having considered the documents of the process, shall consult with the above-mentioned judges on the case in question, and the final sentence shall be pronounced conformably to the opinion of the majority of the above-mentioned judges, and of the above-mentioned arbitrator.

Article the Fourth.—In the authenticated declaration, which the captor shall make before the court, as well as in the certificate of the papers seized, which shall be delivered to the captain of the captured vessel, at the time of the detention, the above-mentioned captor shall be bound to declare his name, the name of his vessel, as well as the latitude and longitude of the place where the detention shall have taken place, and the number of slaves found on board of the ship at the time of the detention.

Article the Fifth.—As soon as sentence shall have been pronounced, the detained vessel, if liberated, and the cargo, in the state in which it shall then be found, shall be restored to the master or the person who represents him, who may, before the same court, claim a valuation of the damages which they may have a right to demand; the captor himself, and in his default, his government, shall remain responsible for the above-mentioned damages.

The two high contracting parties bind themselves to pay, within the term of a year from the date of the sentence, the costs and damages which may be granted by the above-named court, it being understood that these costs and damages shall be at the expence of the power of which the captor shall be a subject.

Article the Sixth.—In case of the condemnation of a vessel, she shall be declared lawful prize as well as her cargo, of whatever description it may be, with the exception of the slaves who may be on board as objects of commerce; and the said vessel, as well as her cargo, shall be sold by public sale, for the profit of the two governments; and as to the slaves, they shall receive from the mixed court a certificate of emancipation, and shall be delivered over to the government on whose territory the court which shall have so judged them shall be established, to be employed as servants or free labourers.

Each of the two governments binds itself to guarantee the liberty of such portion of these individuals as shall be respectively consigned to it.

Article the Seventh.—The mixed courts shall also take cognizance and decide according to the third article of this regulation, on all claims for compensation, on account of losses occasioned to vessels detained under suspicion of having been engaged in the slave trade, but which shall not have been condemned as legal prize by the said courts; and in all cases wherein restitution shall be decreed, the court shall award to the claimant or claimants, his or their lawful attorney or attornies, for his or their use, a just and complete indemnification for all costs of suit, and for all losses and damages which the claimant or claimants may have actually sustained by such capture and detention; that is to say, first, in case of total loss the claimant or claimants shall be indemnified,

A. For the ship, her tackle, apparel, and stores.

B. For all freights due and payable.

C. For the value of the cargo of merchandize, if any; deducting for all charges and expences payable upon the sale of such cargoes, including commission of sale.

D. For all other regular charges, in such cases of total loss; and,

Secondly, in all other cases not of total loss, the claimant or claimants shall be indemnified,

A. For all special damages and expences occasioned to the ship by the detention, and for loss of freight, when due or payable.

B. A demurrage when due, according to the schedule annexed to the present article.

C. For any deterioration of the cargo.

D. An allowance of five *per cent.* on the amount of the capital employed in the purchase of cargo, for the period of delay occasioned by the detention; and,

E. For all premium of insurance on additional risks.

The claimant or claimants shall in all cases be entitled to interest at the rate of five *per cent. per annum* on the sum awarded, until paid by the government to which the capturing ship belongs; the whole amount of such indemnifications being calculated in the money of the country to which the captured ship belongs, and to be liquidated at the exchange current at the time of the award.

The two high contracting parties wishing, however, to avoid as much as possible, every species of fraud in the execution of the treaty of this date, have agreed that if it should be proved in a manner evident to the conviction of the judges of the two nations, and without having recourse to the decision of an arbitrator, that the captor has been led into error by a voluntary and reprehensible fault on the part of the captain of the detained ship, in that case only the detained ship shall not have the right of receiving, during the days of her detention, the demurrage stipulated by the present article.

Schedule of demurrage or daily allowance for a vessel of

100	tons to	120	inclusive,	£5	
121	ditto	150	ditto	6	
151	ditto	170	ditto	8	
171	ditto	200	ditto	10	*per diem,*
201	ditto	220	ditto	11	
221	ditto	250	ditto	12	
251	ditto	270	ditto	14	
271	ditto	300	ditto	15	

and so in proportion.

Article the Eighth.—Neither the judges nor the arbitrators, nor the secretary of the mixed court, shall be permitted to demand or receive, from any of the parties concerned in the sentences which they shall pronounce, any emolument, under any pretext whatsoever, for the performance of the duties which are imposed upon them by the present regulation.

Article the Ninth.—The two high contracting parties have agreed, that in the event of the death or legal impeachment of one or more of the judges or arbitrators composing the above-mentioned mixed courts, their posts shall be supplied, *ad interim,* in the following manner:

On the part of the *British* government, the vacancies shall be filled successively in the court which shall sit within the possessions of his *Britannic* Majesty, by the governor or lieutenant governor resident in that colony; by the principal magistrate of the same, and by the secretary; and in that which shall sit within the possessions of his Majesty the King of the *Netherlands,* it is agreed, that in case of the death of the *British* judge or arbitrator there, the surviving individuals of the said court shall proceed equally to the judgment of such ships as may be brought before them, and to the execution of their sentence,

On the part of the *Netherlands,* the vacancies shall be supplied, in the possessions of his Majesty the King of the *Netherlands,* successively by the governor or lieutenant governor, the principal magistrate and secretary of government; and upon the coast of *Africa,* in case of the death of any *Netherland* judge or arbitrator, the surviving members of the court shall proceed to judgment in the same manner as above specified for the court resident in the possession of his Majesty the King of the *Netherlands,* in the event of the death of the *British* judge or arbitrator.

The high contracting parties have further agreed, that the governor or lieutenant governor of the settlement wherein either of the mixed courts shall sit, in the event of a vacancy arising either of the judge or arbitrator of the other high contracting party, shall forthwith give notice of the same to the governor or lieutenant governor of the nearest settlement of such high contracting party, in order that the loss may be supplied at the ear-

No. II. 5 Geo. IV. c. 113.

liest possible period; and each of the high contracting parties agrees to supply definitively, as soon as possible, the vacancies that may arise in the above-mentioned courts, from death or any other cause whatever.

Articles explanatory to the Treaty with the Netherlands, dated Dec. 31, 1822.

Articles explanatory of and additional to the Treaty concluded at the Hague, May the Fourth One thousand eight hundred and eighteen, between His Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the Netherlands, for the Prevention of the Traffic in Slaves. Signed at Bruxelles, December Thirty-first One thousand eight hundred and twenty-two.

His Majesty the King of the United Kingdom of *Great Britain* and *Ireland*, and his Majesty the King of the *Netherlands*, having thought fit to agree upon the following arrangements, additional to and explanatory of the treaty concluded between their aforesaid Majesties at the *Hague*, on the fourth of *May* one thousand eight hundred and eighteen, for the prevention of the trade in slaves, have therefore named as plenipotentiaries, *ad hoc*:—

His Majesty the King of the United Kingdom of *Great Britain* and *Ireland*, the right honourable *Richard* Earl of *Clancarty*, Viscount *Dunlo*, Baron *Kilconnel*, Baron *Trench* of *Garbally* in the United Kingdom of *Great Britain* and *Ireland*, one of his Majesty's most honourable privy council in *Great Britain*, and also in *Ireland*, member of the committee of the first for the affairs of commerce and colonies, colonel of the regiment of militia of the county of *Galway*, vice admiral of the province of *Connaught*, knight grand cross of the most honourable order of the Bath, and of the royal *Hanoverian Guelphic* order, ambassador extraordinary and plenipotentiary of his said Majesty to his Majesty the King of the *Netherlands*, Grand Duke of *Luxembourg*; and his Majesty the King of the *Netherlands*, *Anne William Charles* Baron *de Nagell d'Ampsen*, member of the body of nobles of the province of *Guelderland*, knight grand cross of the order of the *Belgic* Lion, and of that of *Charles* the Third, of the Legion of Honour, and of the royal *Hanoverian Guelphic* order, chamberlain and minister of state holding the department of foreign affairs; who having exchanged their full powers, found in good and due form, have agreed on the following explanatory and additional articles:

Article the First.—Whereas it is stated in article the first of "instructions intended for the *British* and *Dutch* ships of war employed to prevent the illicit traffic in slaves," that "ships on board of which no slaves "shall be found intended for purposes of traffic, shall not be detained on "any account or pretence whatever:" And whereas it has been found by experience, that vessels employed in the illegal traffic have unshipped their slaves immediately prior to their being visited by ships of war, and that such vessels have thus found means to evade forfeiture, and have been enabled to pursue their unlawful course with impunity, contrary to the true object and spirit of the treaty above mentioned.

The high contracting parties therefore feel it necessary to declare, and it is hereby declared by them, that if there shall be clear and undeniable proof that a slave or slaves has or have been put on board a vessel, for the purpose of illegal traffic, in the particular voyage on which the vessel shall be captured, then and on that account, according to the true intent and meaning of the stipulations of the treaty, such vessel shall be detained by the cruizers, and finally condemned by the commissioners.

Article the Second.—The high contracting parties hereby agree that, in the event of the absence, on account of illness or of any other unavoidable cause, of one or more of the commissioners judges and arbitrators, under the above-mentioned treaty, or in the case of their absence in consequence of leave from their government, duly notified to the board of commissioners sitting under the said treaty, their posts shall be supplied in the same manner in which, by the article ninth of the regulations for the mixed commissions, those vacancies in the commission are to be sup-

plied which may occur by the death of one or more of the commissioners aforesaid.

The explanatory and additional articles above-mentioned shall be submitted to the ratification of the respective sovereigns, and shall have the same force and effect as if they were inserted word for word in the treaty of the fourth of *May* one thousand eight hundred and eighteen above mentioned, and shall be held to form part of the same.

The acts of ratification shall be exchanged within the space of one month from this date, or sooner, if possible.

In witness whereof the respective plenipotentiaries have signed the present Act, and thereunto affixed the seal of their arms.

Done at *Bruxelles* this thirty-first day of *December* in the year of our Lord one thousand eight hundred and twenty-two.

(L. S.) *Clancarty.*
(L. S.) *A. W. C. de Nagell.*

Further additional Article to the before-mentioned Treaty. Signed at Bruxelles, January Twenty-fifth One thousand eight hundred and twenty-three.

Further additional Article to Treaty with the Netherlands.

His Majesty the King of the United Kingdom of *Great Britain* and *Ireland*, and his Majesty the King of *Netherlands*, having thought fit to agree upon the following further arrangement, additional to the treaty concluded between their aforesaid Majesties at the *Hague*, on the fourth of *May* one thousand eight hundred and eighteen, for the prevention of the trade in slaves, and also in addition to the two explanatory and additional articles executed by the plenipotentiaries of their said Majesties, on the thirty-first of *December* one thousand eight hundred and twenty-two, have named authorized and directed the same plenipotentiaries to sign in their names an agreement *ad hoc*:—

His Majesty the King of the United Kingdom of *Great Britain* and *Ireland*, the right honourable *Richard* Earl of *Clancarty*, Viscount *Dunlo*, Baron *Kilconnel*, Baron *Trench* of *Garbally* in the United Kingdom of *Great Britain* and *Ireland*, one of his Majesty's most honourable privy council in *Great Britain*, and also in *Ireland*, member of the committee of the first for the affairs of commerce and colonies, colonel of the regiment of militia of the county of *Galway*, vice admiral of the province of *Connaught*, knight grand cross of the most honourable order of the Bath, and of the royal *Hanoverian Guelphic* order, ambassador extraordinary and plenipotentiary of his said Majesty to his Majesty the King of the *Netherlands*, Grand Duke of *Luxembourg*; and his Majesty the King of the *Netherlands*, *Anne William Charles* Baron *de Nagell d'Ampsen*, member of the body of nobles of the province of *Guelderland*, knight grand cross of the order of the *Belgic* Lion, and of that of *Charles* the Third, of the Legion of Honour, and of the royal *Hanoverian Guelphic* order, chamberlain and minister of state holding the department of foreign affairs; who having exchanged their full powers, found in good and due form, have agreed upon the following additional article:—

Additional Article.

And it is hereby further agreed that upon proof being duly given before the mixed court, whereupon it shall appear that any ship or vessel subject to examination under the treaty, or under the explanatory or additional articles, and detained hovering or sailing upon the coast of *Africa* within one geographic degree of the westward thereof, and between the twentieth degree of latitude north of the equinoctial line, and the twentieth degree of latitude to the southward thereof, or at anchor within any of the rivers bays or creeks of the said coast within the limits above particularly specified, or at anchor at any part within the said limits, and which ship or vessel in her outfit and equipment shall fall within one or more of the following designations; namely,

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1st. Having her hatches fitted with open gratings, instead of being close hatches, as usual in merchant vessels.

2d. Having more divisions or bulk heads in the hold or on deck than necessary for trading vessels.

3d. Having on board spare plank, either actually fitted in that shape, or fit for readily laying a second or moveable deck or slave deck.

4th. Having on board shackles bolts or handcuffs.

5th. Having on board an unreasonable quantity of water in casks or in tanks, more than sufficient for the consumption of her crew as a merchant vessel.

6th. Having on board an unreasonable number of water casks or other vessels for holding water, unless the master shall produce a certificate from the custom house, from the place from which he cleared outwards, stating that a sufficient security had been given by the owners of such vessel that such extra quantity of casks or other vessels should only be used for the reception of palm oil.

7th. Having on board a greater quantity of mess tubs or kids than requisite for the use of her crew as a merchant vessel.

8th. Having on board two or more copper boilers, or even one of an unreasonable size, larger than requisite for the use of her crew as a merchant vessel.

9th. Having on board an unreasonable quantity of rice or farinha, (flour of the manioc of *Brazil* or cassada), or maize or *Indian* corn, beyond any probable requisite provision for the use of her crew; and such rice flour maize or *Indian* corn, not being entered on the manifest as part of the cargo for trade.

The proof of these, or of any one or more of these several indications, shall be considered as *primâ facia* evidence of her actual employment in the slave trade, and unless rebutted by satisfactory evidence upon the part of the master or owners, that such ship or vessel was otherwise legally employed at the time of detention or capture, the ship or vessel shall thereupon be condemned and declared lawful prize.

The aforesaid additional article shall be submitted to the ratification of the respective sovereigns, and shall have the same force and effect as if it was inserted word for word in the treaty of the fourth of *May* one thousand eight hundred and eighteen above mentioned and shall be held to form part of the same.

The acts of ratification shall be exchanged within the space of one month from this date, or sooner if possible.

In witness whereof the respective plenipotentiaries have signed the present Act, and thereunto affixed the seal of their arms.

Done at *Bruxelles* the twenty-fifth day of *January* in the year of our Lord one thousand eight hundred and twenty-three.

(L. S.) *Clancarty.*
(L. S.) *A. W. C. de Nagell.*

The King may appoint Judges and Arbitrators, and grant them Salaries. 58 G. 3. c. 36. 58 G. 3. c. 85. 59 G. 3. c. 16. 59 G. 3. c. 17.

And whereas in and by an Act passed in the fifty-eighth year of his late Majesty *George* the Third, intituled "An Act to carry into Execution "a Treaty made between His Majesty and the King of *Spain*, for preventing Traffic in Slaves;" and by a certain other Act, passed in the said year, intituled "An Act to carry into Execution a Convention "made between His Majesty and the King of *Portugal*, for the preventing "Traffic in Slaves;" and also by a certain other Act, passed in the fifty-ninth year of his late Majesty King *George* the Third, intituled "An Act "to carry into Effect the Treaty with the *Netherlands*, relating to the "Slave Trade;" and also by an Act passed in the said fifty-ninth year of his said late Majesty King *George* the Third, intituled "An Act to amend "an Act of the last Session of Parliament, for carrying into Execution a "Convention made between His Majesty and the King of *Portugal*, for "the preventing the Traffic in Slaves;" it is enacted, that it shall be lawful for his Majesty, by any warrant under his royal sign manual, countersigned by one of his Majesty's principal secretaries of state, to appoint such

commissary judges and commissioners of arbitration, judges and arbitrators, as are in and by the said treaties and conventions, and the regulations thereto annexed, mentioned to be appointed by his Majesty, and from time to time to supply any vacancies which may arise in such offices, by appointing other persons thereto, and to grant salaries to such commissary judges and commissioners of arbitration judges and arbitrators as aforesaid, not exceeding such annual sums as the commissioners of his Majesty's treasury of the United Kingdom of *Great Britain* and *Ireland* shall from time to time direct; and such commissary judges, and commissioners of arbitration, judges and arbitrators are hereby authorized and empowered to examine and decide all such cases of detention captures and seizures of vessels, and their cargoes as aforesaid, detained, seized, taken, or captured under the said treaties, conventions, instructions, and regulations, or included therein, as are by the said treaties, conventions, instructions, and regulations, and by these Acts, made subject to their jurisdiction; and to proceed therein, and give such judgments, and make such orders therein, and to do all other acts matters and things appertaining thereto, agreeably to the provisions of the said treaties conventions, and the instructions and regulations annexed thereto as aforesaid, as fully and effectually to all intents and purposes, as if special powers and authorities for that purpose were specifically and particularly inserted and given in relation thereto in these Acts: Now be it declared and enacted, That the said provisions as herein recited, shall continue remain and be in full force and effect.

Their Jurisdiction.

LIII. And whereas in and by the said Acts of the fifty-eighth and fifty-ninth of *George* the Third, it is enacted, that it shall be lawful for his Majesty, by any warrant under his royal sign manual, countersigned by one of his Majesty's principal secretaries of state for the time being, to nominate and appoint a secretary or registrar to the respective commissions and courts which shall be established in his Majesty's dominions, and from time to time supply, by other appointments, any vacancy, which may thereafter occur in such office, and to grant a salary to such secretary or registrar, not exceeding such annual sum as the said commissioners of his Majesty's treasury shall from time to time direct; and such secretary or registrar is hereby respectively authorized and empowered to do, perform and execute all the duties of such office, as set forth and described in the said treaties, conventions, instructions, and regulations respectively, and to do perform and execute all such acts matters and things as may be necessary for the due discharge of the duties of his office, according to the provisions of the said treaties, conventions, instructions, and regulations as aforesaid: Now be it declared and enacted, That the said provision as herein recited, shall continue remain and be in full force and effect.

The King may appoint a Secretary to the Commission Courts, and grant him a Salary.

His Authority and Duty.

LIV. And be it further enacted, That it shall be lawful for the governor or lieutenant governor, or principal magistrate of the colony or settlement in which such commission or court shall sit, within the possessions of his *Britannic* Majesty, to fill up every vacancy which shall arise in such commission or court, either of commissary judge, commissioner of arbitration, or any officer thereof appointed by his Majesty as aforesaid, according to the provisions contained in the aforesaid regulations, annexed to the said treaties and conventions as aforesaid, *ad interim*, until such vacancy or vacancies shall be thereafter filled by some person or persons appointed by his Majesty for that purpose.

Governors of Colonies to fill up Vacancies in Commissions pro tempore.

LV. And be it further enacted, That every commissary judge and commissioner of arbitration appointed by his Majesty, or *ad interim* as aforesaid, shall, before he shall enter upon the execution of any of the duties of such his office, take an oath in the presence of the principal magistrate then residing and acting in the colony settlement or place in which the commission or court shall be appointed to reside; which oath every such magistrate in any colony settlement or place belonging to his Majesty, in which such commission or court shall be appointed, is hereby authorized to administer, in the form following; (that is to say,)

Oath to be taken by Commissary Judges and Arbitrators.

'I *A. B.* do solemnly swear, That I will according to the best of my skill and knowledge, act in the execution of my office as

'faithfully, impartially fairly, and without preference or favour 'either for claimants or captors, or any other persons; and that I will 'to the best of my judgment and power, act in pursuance of and accord- 'ing to the stipulations regulations and instructions contained in the 'treaty or convention between his Majesty and his Catholic Majesty, sign- 'ed at *Madrid* on the twenty-third day of *September* one thousand eight 'hundred and seventeen, [*or*, in the treaty between his Majesty and his 'most faithful Majesty, of the twenty-second day of *January* one thousand 'eight hundred and fifteen, and the additional convention thereto, signed 'at *London* on the twenty-eighth day of *July* one thousand eight hundred 'and seventeen; or, between his Majesty and his Majesty the King of the '*Netherlands*, signed at the *Hague* on the fourth day of *May* one thou- 'sand eight hundred and eighteen; [*as the case may require.*]

'So help me GOD.'

Oath to be taken by Secretary or Registrar.

LVI. And be it further enacted, That every secretary or registrar appointed by his Majesty, or *ad interim* as aforesaid, under the provisions of the said treaties, conventions, instructions, and regulations, and of this Act shall, before he enters on the duties of his said office, take an oath before the *British* commissary judge as aforesaid, who is hereby empowered to administer the same, in the form following; (that is to say,)

'I *A B.* do solemnly swear, That I will, according to the best of my skill 'and knowledge, act in the execution of my office, and that I will con- 'duct myself with due respect to the authority of the commissary judges 'and commissioners of arbitration of the commission to which I am 'attached, and will act with fidelity in all the affairs which may belong to 'my charge, and without preference or favour either for claimants or 'captors or any other persons. So help me GOD.'

Oaths and Depositions in judicial Proceedings to be administered by Commissary Judges, &c.

LVII. And be it further enacted, That it shall be lawful for the said commissary judges, or for any such secretary or registrar, and they are hereby respectively empowered, to administer oaths to and take the depositions of all parties witnesses and other persons, who may come or be brought before them to be examined, or for the purpose of deposing in the course of any proceeding before the said commissary judges and commissioners of arbitration, in the cases in which such commissioners of arbitration shall act with the said commissary judges, under the said treaties, conventions, instructions, or regulations, or this Act; and it shall also be lawful for the said commissary judges and commissioners of arbitration, in the cases aforesaid, to summon before them all persons whom they may deem it necessary or proper to examine, in relation to any suit proceeding or matter or thing under their cognizance, and to send for and issue precepts for the producing of all such papers as may relate to the matters in question before them, and to enforce all such summonses orders and precepts, by such and the like means powers and authorities, as any court of vice admiralty may do.

Who may summon Witnesses and send for Papers.

Persons giving false Evidence shall be deemed guilty of Perjury.

LVIII. And be it further enacted, That every person who shall wilfully and corruptly give false evidence in any examination or deposition or affidavit, had or taken upon or in any proceeding before the said commissary judges or commissioners aforesaid, or in any examination or deposition or affidavit, had or taken before the said secretary or registrar, under the said treaties, conventions, instructions, or regulations, or this Act, shall be deemed guilty of perjury, and being thereof convicted, shall be subject and liable to all the punishments pains and penalties to which persons convicted of wilful and corrupt perjury are liable; and every such person may be tried for any such perjury, either in the place where the offence was committed, or in any colony or settlement of his Majesty near thereto, in which there is a court of competent jurisdiction to try any such offence, or in his Majesty's Court of King's Bench in *England;* and that in case of any prosecution for such offence in his Majesty's said Court of King's Bench, the venue may be laid in the county of *Middlesex.*

Trial of Perjury.

Venue therein.

Pendency of Suits arising out of the Spanish and Portuguese Treaties, before the Commissions, shall be a Bar to any other Suit.

LIX. And be it further enacted, That the pendency of any suit or pro-

ceeding instituted before the said commissioners for the condemnation or restitution of any ship or cargo or slaves, taken seized or detained by virtue of the said treaties or conventions with *Spain* and *Portugal*, or instructions or regulations thereto annexed, or the final adjudication or condemnation or judgment or determination thereupon, may be pleaded in bar or given in evidence under the general issue, and shall be and be deemed and adjudged in any court whatever, to be a good and complete bar in any action suit or proceeding, whether brought or instituted by any person or persons for the recovery of any ship vessel or cargo, or of any damage for any injury sustained thereby, or by the persons on board the same, in consequence of any capture seizure or detention, or act matter or thing done under the authority or in pursuance of the provisions of the said treaties or conventions, or of the instructions or regulations thereto annexed.

Mixed Courts under the Netherland Treaty shall be the only Tribunal.

LX. And be it further enacted, That it shall not be lawful for any person to commence prosecute or proceed in any claim action or suit whatever, in the High Court of Admiralty or in any other court, or before any judges or persons whomsoever, other than the several mixed courts of justice appointed under and by virtue of the treaty with the *Netherlands* aforesaid and this Act, for the condemnation or restitution of any ship or cargo or slaves, or for any compensation or indemnification for any loss or damage or for any injury sustained by such ship cargo or slaves, or by any persons on board any such ship, in consequence of any capture seizure or detention, under the authority or in pursuance of the provisions of the said treaty with the *Netherlands*, or of the instructions and regulations thereto annexed, or of this Act; and that the pendency of any claim suit or proceeding instituted or which may be instituted before any of the said mixed courts, so to be appointed under the authority of the said treaty with the *Netherlands*, and this Act, for the condemnation or restitution of any ship or cargo, or slaves, taken seized or detained by virtue of the said treaty with the *Netherlands*, or of the instructions and regulations thereto annexed, or for any compensation or indemnification for any loss or damage, in consequence of the taking seizing or detaining any such ship, or the final adjudication, condemnation, judgment, or determination of any such mixed court, as the case shall require, may be pleaded in bar or given in evidence under the general issue; or in case no such claim suit or proceeding shall have been instituted before any such mixed court, then the said treaty instructions and regulations, and this Act, may in like manner be pleaded in bar, or given in evidence under the general issue; and every such plea in bar or evidence so given under the general issue, shall be deemed and adjudged to be a good and complete bar to any such claim, action, suit, or proceeding in the said High Court of Admiralty, or in any court or place other than such mixed courts.

Jurisdiction of Prize Appeal and Admiralty Courts.

LXI. Provided always, and be it further enacted, That it shall be lawful for the lords commissioners of appeal in prize causes, and for the High Court of Admiralty, in all cases and questions arising out of the said captures that may be depending before them, or that may be brought before them on appeal from any vice admiralty court, according to their respective jurisdictions (except in such cases as are in and by this Act expressly excepted), to proceed therein, and to hear and determine all questions respecting any right or interest in or to the same, to which his Majesty, or the captors or seizors of such ships vessels or cargoes may claim to be entitled by reason of the capture or seizure thereof, and the laws relating thereto, and to enforce their judgments and orders therein by the usual process of the said courts.

Proceeds, in case of Captors not establishing their Rights, to be paid to the Use of His Majesty.

LXII. Provided always, and be it further enacted, That in all cases of *Spanish* and *Portuguese* ships captured and proceeded against, and for which indemnification has or may be made, in pursuance of the said treaties or conventions aforesaid, and in which the captors or seizors shall not establish any right or interest on their behalf, by reason of the capture thereof, and the laws relating thereto, it shall be lawful for the said court respectively, to order and adjudge the ships vessels and cargoes, or the

No. II. 5 Geo. IV. c. 113.

proceeds thereof, and all and every part thereof, unto or to which the captors shall not establish any right or interest as aforesaid, to be delivered or paid to the use of his Majesty, to such person or persons as the said commissioners of his Majesty's treasury for the time being shall appoint to receive the same, and to enforce the delivery or the payment thereof by the usual process, as is used and established by law in cases of prize

Treasury may direct the Papers and Proceedings respecting Vessels and Cargoes belonging to the Subjects of Spain, Portugal, or the Netherlands, condemned in the Vice-Admiralty Court at Sierra Leone, to be transmitted to the Registry of the Admiralty Court of England.

LXIII. And whereas several vessels belonging to the subjects of *Spain*, *Portugal* and the *Netherlands* respectively, have been captured between the seventeenth day of *February* one thousand eight hundred and fifteen, and the period at which the commissioners appointed in virtue of the before mentioned treaties or conventions have assembled: And whereas the vessels belonging to the subjects of *Portugal* so captured as aforesaid, are by the additional convention with that state, bearing date the twenty-eighth day of *July* one thousand eight hundred and seventeen, made the subject of special adjudication under the mixed commission established in *London*: And whereas during the period aforesaid, certain proceedings have been had and decrees have been made without due authority or jurisdiction, in the vice admiralty court at *Sierra Leone* in respect of seizures of the vessels and cargoes belonging to the subjects of *Spain Portugal* and the *Netherlands*, some or all of them, for alleged contravention of the said treaties or conventions: And whereas it is expedient and necessary to make further provisions and regulations respecting all the aforesaid ships and cargoes, and also for the payment of bounties in certain cases for slaves seized and taken on board the said ships; be it further enacted, That it shall be lawful for the commissioners of his Majesty's treasury to direct the original papers and proceedings respecting all ships vessels and cargoes belonging to any of the subjects of *Spain Portugal* or the *Netherlands*, condemned in the vice admiralty court at *Sierra Leone* since the seventeenth day of *February* one thousand eight hundred and fifteen, to be transmitted to the registry of the High Court of Admiralty of *England*; and further, to direct the proceeds of such ships and cargoes, in whosesoever possession the same may be, to be remitted and paid for the use of his Majesty, in such manner as the said commissioners of the treasury may direct and appoint; and further, that it shall be lawful for the said commissioners of the treasury, to institute proceedings in the said High Court of Admiralty, against any person or persons in possession of the said proceeds, for the purpose of obtaining payment of the same, and to enforce the payment thereof by process of the said court, and to reward the captors in all cases where contravention of treaty has taken place, by granting to them one moiety of the proceeds of every ship and cargo captured as aforesaid; and the remaining moiety of the said proceeds shall be paid to such person or persons as the said commissioners shall direct or appoint to receive the same for the use of his Majesty.

Treasury may enforce Payment of Proceeds, and reward in certain Cases.

Captors not entitled to Rewards where the Commissioners for Portuguese Claims award Indemnification.

LXIV. Provided always, and be it further enacted, That the captors shall not be entitled to any such reward, where the mixed commission, established in *London* for the adjudication of the claims of *Portuguese* subjects, have awarded or may hereafter award indemnification to be made to the *Portuguese* owners.

Treasury may order the Charges of Proceedings incurred by Captors to be paid out of the Proceeds, &c.

LXV. And be it further enacted, That in every seizure of any ship or vessel for being engaged or employed in the illicit traffic in slaves, by any of his Majesty's ships or vessels of war, or any ship or vessel duly commissioned by any governor or lieutenant governor of any of his Majesty's colonies or settlements, in which it shall appear to the satisfaction of the lord high treasurer or the commissioners of his Majesty's treasury for the time being, that such seizure has not been wantonly or improperly made, it shall be lawful for the said lord high treasurer or commissioners of his Majesty's treasury, or any three or more of them, to order and direct that all the costs charges and expences which may have been or may be incurred by the person or persons making such seizures, in any proceedings, or for any matter or thing relating thereto, or arising out of any such seizure, shall be paid and defrayed out of the proceeds of such

capture or seizure, or out of any of the proceeds of the said vessels or cargoes, paid or to be paid to the order of the commissioners of his Majesty's treasury under the provisions of this Act.

Captors of Vessels and Cargoes condemned for illicit trading in Slaves, and the Proceeds distributed, shall be confirmed in the Possession of the Proceeds.

LXVI. And be it further enacted, That wherever ships and cargoes captured by any of his Majesty's ships of war, or by any ship or vessel commissioned by any governor or lieutenant governor of any of his Majesty's colonies or settlements, have been in fact condemned for illicit trading in slaves, contrary to the treaties or conventions made between the governments of *Spain Portugal* or the *Netherlands*, and where distribution of the proceeds thereof has been made prior to the tenth day of *July* one thousand eight hundred and twenty-one, the said captors shall be confirmed, and are hereby confirmed, in the possession of the said proceeds; any law statute or usage to the contrary notwithstanding.

Captors of Vessels shall, after the same are condemned, be entitled to the Moiety of the Proceeds belonging to His Majesty.

LXVII. And be it further enacted, That where any ship or vessel employed or engaged in illicit traffic in slaves, in violation of any of the said conventions herein-before mentioned, shall be seized by any ship or vessel belonging to his Majesty, duly authorized under the provisions of the said conventions to make such seizures, and shall be afterwards condemned by any of the commissioners appointed in virtue of the treaties or conventions aforesaid, there shall be paid to the captors the moiety to which his Majesty is entitled, under the said treaties or conventions, of the net proceeds of the said ship and cargo the said moiety of the said net proceeds to be distributed in the manner hereafter directed for the distribution of bounties on slaves taken on board the said vessels.

A Bounty of 10*l.* for every Slave found on board of Vessels seized and condemned.

LXVIII. And be it further enacted, That there shall be paid out of the consolidated fund of the United Kingdom of *Great Britain* and *Ireland*, a bounty of ten pounds of lawful money of *Great Britain* for every man woman and child slave seized and found on board any ship or vessel taken, and by the commissioners appointed in virtue of any of the said treaties or conventions, condemned for illicit traffic in slaves, in violation of any of the provisions of the said conventions, such bounty to be issued and paid by order from the said commissioners of his Majesty's treasury, and to be distributed to and amongst the captors aforesaid, in such manner and proportions as his Majesty, his heirs and successors, shall think fit to order and direct, by any order or orders in council, or by any proclamation or proclamations to be made for that purpose.

Such Bounty of 10*l* shall be paid for every Slave found on board of Vessels of Portugal, Spain, and Netherlands, captured within the Periods herein mentioned.

LXIX. And whereas, besides the treaties herein-before mentioned, a certain other treaty was concluded with his Royal Highness the Prince Regent of *Portugal*, on the nineteenth day of *February* one thousand eight hundred and ten: And whereas prior to the passing of this Act, and since the conclusion of the said treaties respectively, divers seizures have been made of ships cargoes and slaves on board the said ships, the said ships being engaged in traffic for slaves, contrary to the provisions of the said treaties, some or one of them; be it further enacted, That in all captures of *Portuguese* vessels, made by any of his Majesty's ships of war, or any ship or vessel duly commissioned by any governor or lieutenant govenor of any of his Majesty's colonies or settlements, between the first day of *June* one thousand eight hundred and fourteen, and the twenty-eighth day of *July* one thousand eight hundred and seventeen, which said vessels shall have violated any treaty or convention with *Portugal*, there shall be paid a like bounty of ten pounds for every man woman and child slave so seized and taken; and in all captures of vessels belonging to *Spain Portugal* or the *Netherlands*, captured by any of his Majesty's ships or vessels duly authorized under the provisions of the said treaties, of the said twenty-eighth day of *July* one thousand eight hundred and seventeen with *Portugal*, the said twenty-third day of *September* one thousand eight hundred and seventeen with *Spain*, and the said fourth day of *May* one thousand eight hundred and eighteen with the *Netherlands*, prior to the passing of this Act, and condemned for contravention of the provisions thereof, there shall be paid a like bounty of ten pounds for every man woman and child slave found on board any such vessel, to be distributed to the captors

No. II. 5 Geo. IV. c. 113.

thereof, in the same manner as is by the provisions of this Act herein-before directed: Provided always, that in all cases in which the proceeds of any such capture shall have been distributed among the captors, and allowed to be retained by such captors under the provisions of this Act, the amount of the moiety of the proceeds shall be deducted from such bounties.

Where Proceeds have been distributed and allowed, Moiety of Proceeds shall be deducted from Bounties.

Proceeds and Bounties to be distributed as the Treasury shall direct.

LXX. Provided always, and be it further enacted, That in all cases where any bounty or bounties, or any proceeds are by virtue of this Act given to any capturing vessel duly commissioned by any governor or lieutenant governor of any of his Majesty's colonies or settlements, the said proceeds and bounty or bounties shall be distributed in such manner as the commissioners of his Majesty's treasury shall be pleased to direct or appoint.

Parties claiming Benefit under this Act may resort to the Court of Admiralty.

LXX. Provided also, and be it further enacted, That any party or parties claiming any benefit, by way of bounty or share of the proceeds, for the seizure of any *Spanish Portuguese* or *Netherland* vessels, for violation of treaty or convention, shall and may resort to the High Court of Admiralty for the purpose of obtaining the judgment of the said court in that behalf; and that it shall and may be lawful for the judge of the said High Court of Admiralty to determine thereon, and also to hear and determine any question of joint capture which may arise upon any seizure of slaves, and enforce any decree or sentence of any of the mixed commission courts established or to be established in pursuance of treaties or conventions with foreign powers, and the decrees or sentences of the vice admiralty court relating to any seizure under this Act.

Where Slaves taken as Prize shall not have been condemned, or shall not have been delivered over, the Treasury may allow One Moiety of the Bounty.

LXXII. And be it further enacted, That where any slaves, or persons treated, dealt with, carried, kept, or detained as slaves, have been, prior to the passing of this Act, or shall be hereafter taken as prize of war, or trading contrary to the provisions of the treaties with foreign powers, or as liable to forfeiture for any offence committed against this Act, but who shall not have been condemned, or shall not have been delivered over in consequence of death sickness or other inevitable circumstance, it shall and may be lawful for the said commissioners of his Majesty's treasury, if to their discretion it shall seem meet, by warrant, signed by any three or more of them, to direct the payment out of the consolidated fund of the United Kingdom of *Great Britain* and *Ireland*, of one moiety of the bounty which would have been due in each case respectively if the said slaves had been delivered over.

Where Judgment shall be given against the Seizor, or the Seizure shall be relinquished, the Treasury may direct Payment of the Costs and Damages.

LXXIII. And be it further enacted, That when any seizure shall be made, or prosecution instituted as or for the violation of any of the provisions of this Act, and judgment shall be given against the seizor or prosecutor, or such seizure shall be relinquished by him, it shall be lawful for the said lords commissioners of his Majesty's treasury, if to their discretion it shall seem meet, by warrant, signed by any three or more of them, to direct payment to be made out of the consolidated fund of the United Kingdom of *Great Britain* and *Ireland*, of such costs damages and expences as the said seizor or prosecutor may be liable to pay in respect of such seizure, or any proportionate part thereof.

Treasury may direct Payment of any Sum awarded to be due on account of unlawful Seizures. Liability of Seizors not taken away.

LXXIV. And be it further enacted, That it shall and may be lawful for the lords commissioners of his Majesty's treasury, if to their discretion it shall seem meet, by warrant, signed by three or more of them, to direct payment to be made out of the consolidated fund of the United Kingdom of *Great Britain* and *Ireland*, of any sums of money awarded by the mixed commission courts to be due on account of any unlawful seizure or detention by any of his Majesty's authorized cruisers: Provided always, that nothing herein contained shall exempt the seizor from his liability to make good the payments so made, when lawfully called upon by order of the said commissioners.

Registrars of Vice-Admiralty Courts, &c., to transmit to the Treasury a Return of all Cases adjudged in the said Courts for the preceding Six Months, with State of the Property according to Schedule (A.)

LXXV. And be it further enacted, That the registrars of the several

vice admiralty courts, and also the commissary judges and commissioners of arbitration of the several mixed commission courts respectively, shall, on the first day of *January* and first day of *July* in every year, transmit to the said lords commissioners of his Majesty's treasury a list or return of all cases which shall have been adjudged in the said courts respectively under this Act, during the six months preceding, together with the names of the seizors, and the dates of the seizures and sentences respectively, together with an account of the state of the property, according to the schedule marked (A.) to this Act annexed.

Forfeitures to His Majesty to be paid over as He shall direct.

LXXVI. And be it further enacted, That all sums of money accruing to his Majesty from or on account of any forfeiture penalty or condemnation under this Act, shall be paid over to such person or persons as his Majesty, his heirs and successors, may please to appoint, for the use of his Majesty, his heirs and successors.

Regulations to which Prize Agents are liable shall be extended to Bounties and Proceeds to be distributed under this Act.

LXXVII. And be it further enacted, That all the provisions, rules, regulations, forfeitures, and penalties respecting the delivery by prize agents of accounts for examination, and the distribution of prize money, and the accounting for and paying over the proceeds of prize and the percentage due thereon to *Greenwich* Hospital, shall be and are hereby extended to all bounties and proceeds to be distributed under the provisions of this Act to the officers and crews of any of his Majesty's ships or vessels of war, whether the said bounty and proceeds shall be paid to prize agents, or to any other persons authorized to receive the same for the use and benefit of the officers and crews of any of his Majesty's ships or vessels of war.

In all Actions commenced under this Act Defendant may plead the General Issue.

LXXVIII. And be it further enacted, That if any action or suit shall be commenced, either in *Great Britain* or elsewhere, against any person or persons, for any thing done in pursuance of the said treaties conventions, or the instructions or regulations thereto annexed, or of this Act, in as far as it relates thereto, the defendant or defendants in such action or suit may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of the said treaties, conventions, instructions, or regulations, or of this Act; and if it shall appear so to have been done, the jury shall find for the defendant or defendants; and if the plaintiff shall be nonsuited, or discontinue his action after the defendant or defendants shall have appeared, or if judgment shall be given upon any verdict or demurrer against the plaintiff, the defendant or defendants shall recover treble costs, and have the like remedy for the same as defendants have in other cases by law.

Treble Costs.

Nothing in this Act contained relating to the said Treaties, &c. shall extend to alter any other Part of this Act.

LXXIX. And also that nothing in this Act contained in relation to the said treaties, conventions, regulations, or instructions aforesaid, shall extend or be deemed or construed in anywise to alter, suspend, affect, relax, or repeal any of the clauses, penalties, forfeitures, or punishments contained and enacted in any other part of this Act, but that all such clauses, regulations, penalties, forfeitures, and punishments therein contained, shall remain in full force and virtue.

Nothing in this Act contained shall extend to alter any of the said Treaties, &c.

LXXX. And be it further enacted, That nothing in the other parts of this Act contained shall extend or be deemed or construed in anywise to alter, suspend, affect, relax, or repeal any of the clauses, penalties, forfeitures, or punishments contained enacted or confirmed in that part of this Act which relates to the said treaties, conventions, regulations, or instructions aforesaid.

Act may be altered this Session.

LXXXI. And be it further enacted, That this Act may be repealed altered, or amended during this present session of Parliament.

Commencement of this Act.

LXXXII. And be it further enacted, That this Act shall commence and have effect from and after the first day of *January* in the year of our Lord one thousand eight hundred and twenty-five.

SCHEDULE (A.) referred to by this Act.

Date of Seizure.	Property Seized.	Seizor.	Date of Sentence.	Decretal part of Sentence, whether Forfeiture or Restitution.	Whether Property condemned has been sold or converted, and whether any part remains unsold, and in whose hands the proceeds remain.

No. III.
9 Geo. IV.
c. 84.

[No. III.] 9 George IV. c. 84.—An Act to continue an Act for amending and consolidating the Laws relating to the Abolition of the Slave Trade.—[25*th July* 1828.]

WHEREAS by an Act passed in the fifth year of the reign of his present Majesty, intituled, "An Act to amend and consolidate the "Laws relating to the Abolition of the Slave Trade," it is amongst other things enacted, that it shall and may be lawful for his Majesty, his heirs and successors, by any order or orders to be by him or them from time to time issued, with the advice of his or their privy council, to authorize and permit, until the thirty-first day of *July* one thousand eight hundred and twenty-seven, and to the end of the next ensuing session of Parliament, and no longer, the removal of any slaves from any island in the *West Indies* belonging to or in the possession of his Majesty, to any other island in the *West Indies* belonging to or in the possession of his Majesty, in case it shall be made appear to his Majesty, his heirs and successors, and his or their council, that such removal is essential to the welfare of the slaves proposed to be so removed; and it is thereby provided, that it shall and may be lawful for his Majesty, his heirs and successors, by any such order or orders as aforesaid, to make and establish such stipulations conditions and regulations, for the benefit of such slaves in the island to which they may be so removed, as to his Majesty, his heirs and successors, with the advice of his or their council, may seem meet, and to take security in double the value of the slaves so to be removed (such value to be estimated according to the price of slaves in the island to which such slaves are to be taken), by bond or recognizance to be made and entered into by the person or persons to or on the application of whom such licence may be granted, with at least two sufficient sureties, for the due and faithful observance and performance of all such stipulations conditions and regulations, as aforesaid; and all orders in council to be so issued as aforesaid shall be laid before both Houses of Parliament within six weeks next after the commencement of each session: And whereas it is expedient that the powers so vested as aforesaid in his Majesty in council, by the said recited Act, should be still further continued; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the powers so vested as aforesaid in his Majesty in council, in and by the said recited Act, shall continue and be vested in his Majesty in council, in such and the same manner, and subject to all such and the same conditions and regulations, as in the said Act are provided and contained, until the thirty-first day of *July* one thousand eight hundred and twenty-nine, and further until the end of the then next session of Parliament, if Parliament be then sitting, and no longer.

5 G. 4. c. 113.

The Powers vested in His Majesty by the recited Act continued to 31 July 1829.

II. And whereas it is by the said Act amongst other things provided, that where two or more islands are comprised in the same colonial government, nothing therein contained shall prevent or be construed to prevent any proprietor of slaves, lawfully being in any one of such islands, from carrying away or removing such slaves to any other island within the same government, for the purpose of cultivating any estate or plantation belonging to such proprietor himself; provided that such special purpose of the removal shall previously be made to appear to the satisfaction of the governor or lieutenant governor, or other person having the chief civil command for the time being within such government, who thereupon shall and may grant a licence for such removal, specifying therein the special cause thereof; but it is enacted, that before any slave or slaves shall, by virtue of any such licence, be so removed or embarked on board of any ship or vessel for that purpose, such clearances or permits, and such certificates, shall be obtained as are therein-after mentioned and directed in regard to domestic slaves attending on their owner or master or his family

In Colonies where no Custom House is established, the Governor may appoint some Person to grant Clearances and Certificates for the Removal of Slaves.

No. II. 9 Geo. IV. c. 84.

by sea; and it is by the said Act further provided, that nothing therein contained shall prevent any slave, who shall be really and truly the domestic servant of any person residing or being in any island, colony, plantation, or territory, belonging to or under the dominion or in the possession of his Majesty, from attending such his owner or master or any part of his family, by sea, to any place whatever; nevertheless, under certain regulations therein mentioned, and especially under the regulation that the name and occupation of every such domestic slave or slaves shall be inserted in or endorsed upon the clearance or permit to depart of such ship or vessel, by or in the presence of the collector comptroller or other chief officer of the customs of the port or place from which such ship or vessel shall clear outwards on any voyage, who shall, without fee or reward, certify under his hand that the slave or slaves so embarked or carried were reported or described to him as domestic servants: And whereas it may be necessary to effect a removal of slaves, under the provisions aforesaid, from islands in which no custom house is established, and in such cases it would be impossible to comply with the regulations aforesaid respecting clearances; be it therefore enacted, That it shall and may be lawful for the governor or other person administering the government of any of his Majesty's colonies, by commission under his hand and seal, to appoint some fit and proper person or persons in any one or more island or islands, in any such colony wherein no custom house shall be established, for the special purpose of granting such clearances and certificates as aforesaid; and all clearances and certificates to be granted by any person or persons appointed in manner aforesaid shall be to all intents and purposes as valid and effectual as if the same had been granted by any collector comptroller or other officer of customs, as in the said recited Act in that behalf mentioned: Provided always, that every such commission shall and may from time to time be revoked and renewed by any such governor, as occasion may require.

PART V.—CLASS XVII.

ESCAPES AND RESCUE.

[No. I.] 1 Edward II. st. 2.—In what Case it is Felony to break Prison, in what not.

No. I. 1 Edw. II. st. 2.

'CONCERNING prisoners which break prison, our Lord the King willeth and commandeth, That none from henceforth that breaketh 'prison shall have judgment of life or member for breaking of prison only, 'except the cause for which he was taken and imprisoned did require such 'judgment, if he had been convict thereupon according to the law and cus- 'tom of the realm, albeit in times past it hath been used otherwise.'

[No. II.] 16 George II. c. 31.—An Act for the further Punishment of Persons who shall aid or assist Prisoners to attempt to escape out of lawful Custody.

No. II. 16 Geo. II. c. 31.

FOR the punishment of persons who shall aid or assist prisoners to attempt to escape out of lawful custody, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person shall, from and after the twenty-fourth day of *June* one thousand seven hundred and forty-three, by any means whatsoever be aiding or assisting to any prisoner to attempt to make his or her escape from any gaol, although no escape be actually made, in case such prisoner then was attainted or convicted of treason, or any felony, except petty larceny, or lawfully committed to or detained in any gaol for treason, or any felony, except petty larceny, expressed in the warrant of commitment or detainer, every person so offending, and being thereof lawfully convicted, shall be deemed and adjudged guilty of felony, and shall be transported to one of his Majesty's colonies or plantations in *America*, for the term of seven years; and in case such prisoner then was convicted of, committed to, or detained in any gaol for petty larceny, or any other crime, not being treason or felony, expressed in the warrant of his or her commitment or detainer as aforesaid, or then was in gaol upon any process whatsoever, for any debt, damages, costs, sum or sums of money, amounting in the whole to the sum of one hundred pounds, every person so offending as aforesaid, and being thereof lawfully convicted, shall be deemed and adjudged to be guilty of a misdemeanor, for which he or she shall be liable to a fine and imprisonment.

Where a person assisting a prisoner to escape, shall be deemed guilty of felony.

and where deemed a misdemeanor.

II. And be it further enacted by the authority aforesaid, That if any person shall, from and after the said twenty-fourth day of *June* one thousand seven hundred and forty-three, convey, or cause to be conveyed into any gaol or prison, any vizor, or other disguise, or any instrument or arms proper to facilitate the escape of prisoners; and the same shall deliver, or cause to be delivered to any prisoner in any such gaol, or to any other person there, for the use of any such prisoner, without the consent or privity of the keeper, or under-keeper of any such gaol or prison; every such person, although no escape or attempt to escape be actually made, shall be deemed to have delivered such vizor, or other disguise, instrument, or arms, with an intent to aid and assist such prisoner to escape or attempt to escape;

After 24 June 1743, any person conveying any disguise, instrument, or arms, to help an escape, without the knowledge of the keeper, if the prisoner be attainted of

No. II. 16 Geo. II. c. 31.

and in case such prisoner then was attainted or convicted of treason, or any felony, except petty larceny, or lawfully committed to, or detained in any such gaol for treason, or any felony, except petty larceny, expressed in the warrant of commitment or detainer, every person so offending, and being thereof lawfully convicted, shall in like manner be deemed and adjudged guilty of felony, and shall be transported to one of his Majesty's colonies or plantations in *America*, for the term of seven years; but in case the prisoner to whom, or for whose use, such vizor or disguise, instrument or arms, shall be so delivered, then was convicted, committed, or detained for petty larceny, or any other crime, not being treason or felony, expressed in the warrant of commitment or detainer, or upon any process whatsoever, for any debt, damages, costs, sum or sums of money, amounting in the whole to the sum of one hundred pounds, every such person so offending, and being thereof lawfully convicted, shall be deemed and adjudged to be guilty of a misdemeanor, for which he or she shall be in like manner liable to a fine and imprisonment.

treason or felony, or committed for treason or felony; the offender shall be deemed guilty of felony, and be transported.

Disguise, instruments, or arms, given to one detained for any less crime, or for debt, damages, &c. amounting to 100*l.* the offender shall be deemed guilty of a misdemeanor.

To assist any person to escape from a constable, being charged with treason or felony; or from any boat, &c. carrying felons for transportation; the offender shall be deemed guilty of felony, and shall be transported for seven years.

III. And be it further enacted by the authority aforesaid, That if any person shall, from and after the twenty-fourth day of *June* one thousand seven hundred and forty-three, aid or assist any prisoner to attempt to make his or her escape from the custody of any constable, headborough, tythingman, or other officer or person who shall then have the lawful charge of such prisoner, in order to carry him or her to gaol, by virtue of a warrant of commitment for treason, or any felony (except petty larceny) expressed in such warrant; or if any person shall be aiding or assisting to any felon to attempt to make his escape from on board any boat, ship or vessel, carrying felons for transportation, or from the contractor for the transportation of such felons, his assigns or agents, or any other person to whom such felon shall have been lawfully delivered, in order for transportation; then every person so offending, and being lawfully convicted thereof, shall be deemed and adjudged to be guilty of felony, and shall be transported to one of his Majesty's colonies or plantations in *America*, for the term of seven years.

The prosecution to commence within a year.

IV. Provided always, and be it enacted, That there shall be no prosecution for any of the said offences, unless such prosecution be commenced within one year after such offence committed.

Persons ordered for transportation, and found at large before the expiration of the term, how to be dealt with.

V. And be it further enacted by the authority aforesaid, That if any person who shall be ordered for transportation, in pursuance of this Act, shall return from transportation, or be at large in any part of *Great Britain*, without some lawful cause, before the expiration of the term for which he or she shall have been ordered to be transported, every such person shall be liable to the same punishment, and to the like methods of prosecution, trial, and conviction, for returning from such transportation, or for being at large in any part of *Great Britain*, as other felons transported, or ordered to be transported, are liable unto by virtue of the laws now in force.

[No. III.] 1 and 2 George IV. c. 88.—An Act for the Amendment of the Law of Rescue.—[10*th July* 1821.]

No. III. 1 & 2 Geo. IV. c. 88.

Punishment of persons rescuing persons charged with felony.

WHEREAS divers daring attempts have of late been made to effect the rescue or prevent the detention of persons charged with or committed for or on suspicion of felony: And whereas it might tend more effectually to prevent the commission of such offences if further provisions were made for the punishment of persons who may hereafter be convicted thereof, as are hereinafter enacted: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, if any person shall rescue, or aid and assist in rescuing, from

No. III. 1 & 2 Geo. IV. c. 88.

the lawful custody of any constable, officer, headborough, or other person whomsoever, any person charged with, or suspected of, or committed for any felony, or on suspicion thereof, then if the person or persons so offending shall be convicted of felony, and be entitled to the benefit of clergy, and be liable to be imprisoned for any term not exceeding one year, it shall be lawful for the Court by or before whom any such person or persons shall be convicted, to order and direct, in case it shall think fit, that such person or persons, instead of being so fined and imprisoned as aforesaid, shall be transported beyond the seas for seven years, or be imprisoned only, or be imprisoned and kept to hard labour in the common gaol, house of correction, or penitentiary house, for any term not less than one and not exceeding three years.

Punishment of persons assaulting constables to prevent the apprehension or detainer of persons charged with felony.

II. And be it further enacted, That, from and after the passing of this Act, if any person shall assault, beat, or wound any constable, officer, headborough, or other person whomsoever, with intent in so doing, or by means thereof, to obstruct, resist, or prevent the lawful apprehension or detainer of any person charged with or suspected of felony; or if any person charged with or suspected of felony, shall assault, beat, or wound any constable, officer, headborough, or other person whomsoever, with intent in so doing, or by means thereof, to obstruct, resist, or prevent his or her apprehension or detainer; then and in every or any such case, if the person or persons so offending shall be convicted of a misdemeanor only, it shall be lawful for the Court by or before whom any such person or persons shall be so convicted as aforesaid to order and direct, in case it shall think fit, that such person or persons shall, in addition to any other pains, penalties, or punishment to which he, she, or they are now subject or liable, be kept to hard labour for any term not exceeding two years, and not less than six months.

Public Act.

III. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all judges, justices, and others, without being specially pleaded.

Part V.—Class XVIII.

PERJURY.

[No. I.] 5 Elizabeth, c. 9.—An Act for Punishment of such as shall procure or commit any wilful Perjury.*

No. I. 5 Elizabeth, c. 9.

What punishment shall be inflicted upon persons who commit wilful perjury.

'WHERE in the Parliament holden at *Westminster* in the two and thirtieth year of the reign of the late King of famous memory, King *Henry* the Eighth, amongst other things, it was ordained, enacted and established, That no person or persons of what estate, degree or condition soever he or they were, should from thenceforth unlawfully suborn any witness or witnesses, by letters, rewards, promises, or by any other sinister labour or means, for to maintain any matter or cause, or to the disturbance or hindrance of justice, or to the procurement or occasion of any manner of perjury, by false verdict or otherwise, in any of the King's Courts of Chancery, the Star-chamber, the *Whitehall*, or elsewhere within any of the King's dominions of *England* or *Wales*, or the marches of

* For the exposition of this Act, see Hawk. P. C. B. 1. ch. 69. In consequence of the difficulties attending prosecutions on this statute, they have fallen entirely into disuse.

No. I.
5 Elizabeth, c. 9.
32 H. 8. c. 9.

'the same, where any person or persons have or from thenceforth should 'have authority by virtue of the King's commission, patent or writ, to hold 'plea of land, or to examine, hear and determine any title of lands, or 'any matter or witnesses concerning the title, right or interest of any 'lands, tenements or hereditaments, upon pain of forfeiture for every such 'offence, ten pound, the one moiety thereof to be to the King, and the 'other to the party that would sue for the same, as by the same estatute, 'amongst divers other things, more plainly it doth appear.

II. 'Sithence the-making whereof, for that the said penalty is so small 'towards the offenders in that behalf, the said offence of subornation, and 'sinister procurement of false witnesses, hath nevertheless greatly increased 'and augmented, and by reason of the wilful perjury committed by the 'same suborned witnesses, divers and sundry of the Queen's Majesty's sub-'jects have sustained disherison and great impoverishment, as well of their 'lands and tenements, as also of their goods and chattels:'

The penalty for procuring of wilful perjury.

III. Be it therefore enacted by our Sovereign Lady the Queen, by the assent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, That all and every such person and persons, which at any time after the tenth day of *April* next coming shall unlawfully and corruptly procure any witness or witnesses by letters, rewards, promises, or by any other sinister and unlawful labour or means whatsoever, to commit any wilful and corrupt perjury, in any matter or cause whatsoever now depending, or which hereafter shall depend in suit and variance, by any writ, action, bill, complaint or information, in any wise touching or concerning any lands, tenements or hereditaments, or any goods, chattels, debts or damages, in any of the courts before mentioned, or in any of the Queen's Majesty's Courts of Record, or in any leet, view of frankpledge or law-day, ancient demean court, hundred court, court baron, or in the court or courts of the Stannery in the counties of *Devon* and *Cornwall;* or shall likewise unlawfully and corruptly procure or suborn any witness or witnesses, which shall from and after the said tenth day of *April* be sworn to testify *in perpetuam rei memoriam;* that then every such offender or offenders shall for his, hers or their said offence, being thereof lawfully convicted or attainted, lose and forfeit the sum of forty pounds (1).

The penalty enlarged by 2 G. 2. c. 25.

IV. And if it happen any such offender or offenders, so being convicted or attainted as aforesaid, not to have any goods or chattels, lands or tenements, to the value of forty pounds, that then every such person so being convicted or attainted of any the offences aforesaid, shall for his or their said offence suffer imprisonment by the space of one half year, without bail or mainprize, and to stand upon the pillory the space of one whole hour, in some market-town next adjoining to the place where the offence was committed, in open market there, or in the market-town itself where the offence was committed.

V. And that no person or persons being so convicted or attainted, to be from thenceforth received as a witness to be deposed and sworn in any Court of Record within any of the Queen's Highness dominions of *England, Wales,* or the marches of the same, until such time as the judgment given against the said person or persons shall be reversed by attaint or otherwise; and that upon every such reversal, the parties grieved to recover his or their damages against all and every such person and persons as did procure the said judgment so reversed to be first given against them or any of them, by action or actions to be sued upon his or their case or cases, according to the course of the common laws of this realm.

The penalty of him that doth commit wilful perjury.

VI. And be it further enacted by the authority aforesaid, That if any person or persons after the said tenth day of *April* next coming, either by the subornation, unlawful procurement, sinister persuasion or means of any others, or by their own act, consent or agreement, wilfully and cor-

(1) The punishments directed by the statute 18 Geo. 2. c. 18. to be inflicted upon perjury, in falsely taking the freeholder's oath at an election of a knight of the shire, are cumulative under the statute 5 Eliz. c. 9. s. 6. & 2 Geo. 2. c. 25. s. 2. to which the first mentioned statute refers. Rex *v.* Price, 6 E. R. 327.

No. I.
5 Elizabeth, c. 9.

ruptly commit any manner of wilful perjury, by his or their deposition in any of the courts before mentioned, or being examined *ad perpetuam rei memoriam*, that then every person or persons so offending, and being thereof duly convict or attainted by the laws of this realm, shall for his or their said offence lose and forfeit twenty pounds, and to have imprisonment by the space of six months without bail or mainprize; and the oath of such person or persons so offending, from thenceforth not to be received in any Court of Record within this realm of *England* or *Wales*, or the marches of the same, until such time as the judgment given against the said person or persons shall be reversed by attaint or otherwise: And that upon every such reversal the parties grieved to recover his or their damages against all and every such person and persons as did procure the said judgment so reversed to be given against them, or any of them, by action or actions to be sued upon his or their case or cases, according to the course of the common laws of this realm.

VII. And if it happen the said offender or offenders so offending, not to have any goods or chattels to the value of twenty pounds; that then he or they to be set on the pillory in some market-place within the shire, city or borough, where the said offence shall be committed, by the sheriff or his ministers, if it shall fortune to be without any city or town corporate; and if it happen to be within any such city or town corporate, then by the said head officer or officers of such city or town corporate, or by his or their ministers, and there to have both his ears nailed, and from thenceforth to be discredited and disabled for ever to be sworn in any of the Courts of Record aforesaid, until such time as the judgment shall be reversed, and thereupon to recover his damages in manner and form beforementioned.

Who shall have the forfeitures, and by what means.

VIII. The one moiety of all which sums of money, goods and chattels, to be forfeited in manner and form aforesaid, to be to the Queen our Sovereign Lady, her heirs and successors, and the other moiety to such person or persons as shall be grieved, hindered or molested by reason of any the offence or offences before mentioned, that will sue for the same by action of debt, bill, plaint, information or otherwise, in any of the Queen's Majesty's Courts of Record, in the which no wager of law, essoin, protection or injunction to be allowed.

Who shall have authority to hear and determine the offences aforesaid.

IX. And be it also enacted by the authority aforesaid, That as well the judge and judges of every such of the said courts where any such suit is or shall be, and whereupon any such perjury is or shall happen to be committed, as also the justices of assize and gaol-delivery in their several circuits, and the justices of the peace in every county within this realm or in *Wales*, at their quarter-sessions, both within the liberties and without, shall have full power and authority by virtue hereof to inquire of all and every the defaults and offences perpetrated, committed or done contrary to this Act, by inquisition, presentment, bill or information before them exhibited, or otherwise lawfully to hear and determine the same, and thereupon to give judgment, award process and execution of the same, according to the course of the laws of this realm.

This statute shall be proclaimed at all assizes.

X. And be it further enacted by the authority aforesaid, That the justices of assize of every circuit within this realm, and elsewhere within the Queen's dominions, shall in every county within their circuits, twice in the year, that is to say, in the time of their sittings, make open proclamation of this estatute or of the effect thereof, to the intent no person or persons shall be ignorant or miscognisant of the penalties herein contained.

This Act shall not extend to any court ecclesiastical.

XI. Provided also, That this Act, nor any thing therein contained, shall not extend to any spiritual or ecclesiastical court or courts within this realm of *England* or *Wales*, or the Marches of the same; but that all and every such offender or offenders as shall offend in form aforesaid, shall and may be punished by such usual and ordinary laws, as heretofore hath been and yet is used and frequented in the said ecclesiastical courts; any thing in this present Act contained to the contrary in any wise notwithstanding.

Process served upon witnesses to testify.

XII. Provided also, and be it further enacted by the authority aforesaid, That if any person or persons, upon whom any process out of any of the Courts of Record within this realm or *Wales* shall be served to testify

No. I. 5 Elizabeth, c. 9.

or depose concerning any cause or matter depending in any of the same courts, and having tendered unto him or them, according to his or their countenance or calling, such reasonable sums of money for his or their costs and charges, as having regard to the distance of the places is necessary to be allowed in that behalf, do not appear according to the tenor of the said process, having not a lawful and reasonable let or impediment to the contrary; that then the party making default, to lose and forfeit for every such offence ten pounds, and to yield such further recompence to the party grieved, as by the discretion of the judge of the court, out of which the said process shall be awarded, according to the loss and hindrance that the party which procured the said process shall sustain, by reason of the non-appearance of the said witness or witnesses; the said several sums to be recovered by the party so grieved against the offender or offenders, by action of debt, bill, plaint or information, in any of the Queen's Majesty's Courts of Record, in which no wager of law, essoin or protection to be allowed.

The authority to punish perjury, given by the statute of 11 H. 7. c. 25. saved.

XIII. Provided always, That this Act, or any thing therein contained, shall not extend in any wise to restrain the power and authority given by Act of Parliament made in the time of King *Henry* the Seventh, to the Lord Chancellor of *England*, and others of the King's council for the time being, to examine and punish riots, routs, heinous perjuries and other offences and misdemeanings; which Lord Chancellor and other sithence the making of the said Act have most commonly used to hear and determine such matters in the Court of *Westminster* commonly called the Star-chamber; nor to restrain the power or authority of the Lord President and council in the Marches of *Wales*, or of the Lord President and council in the North, nor of any other judge, having absolute power to punish perjury before the making of this estatute; but that they and every of them shall and may proceed in the punishment of all offences heretofore punishable, in such wise as they might have done and used to do before the making of this Act, to all purposes, so that they set not upon the offender or offenders less punishment than is contained in this Act. This Act to continue unto the end of the next parliament, 5 Coke 99. made perpetual by 29 El. c. 5. and 21 Jac. 1. c. 28. sect. 8.

[No. II.] 2 George II. c. 25.—An Act **for the more effectual preventing and further Punishment of Forgery, Perjury, and Subornation of Perjury**; and to make it Felony to steal Bonds, Notes or other Securities for Payment of Money.*

No. II. 2 Geo. II. c. 25.

II. AND the more effectually to deter persons from committing wilful and corrupt perjury, or subornation of perjury, be it further enacted by the authority aforesaid, That besides the punishment already to be inflicted by law for so great crimes, it shall and may be lawful for the court or judge, before whom any person shall be convicted of wilful and corrupt perjury or subornation of perjury, according to the laws now in being, to order such person to be sent to some house of correction within the same county for a time not exceeding seven years, there to be kept to hard labour during all the said time, or otherwise to be transported to some of his Majesty's plantations beyond the seas, for a term not exceeding seven years, as the court shall think most proper; and thereupon judgment shall be given that the person convicted shall be committed or transported accordingly, over and beside such punishment as shall be adjudged to be inflicted on such person agreeable to the laws now in being; and if transportation be directed, the same shall be executed in such manner as is or shall be provided by law for the transportation of felons; and if any person so committed or transported shall voluntarily escape or break prison, or return from transportation before the expiration of the time for which he

Penalty for perjury and subornation.

* For the other parts of the Act, see Cl. VII. No. 26. Cl. XII. No. 5.

shall be ordered to be transported as aforesaid, such person, being thereof lawfully convicted, shall suffer death as a felon, without benefit of clergy, and shall be tried for such felony in the county where he so escaped, or where he shall be apprehended.

No. II. 2 Geo. II. c. 25.

[No. III.] 23 George II. c. 11.—An Act to render Prosecutions for Perjury and Subornation of Perjury, more easy and effectual.

No. III. 23 Geo. II. c. 11.

'WHEREAS by reason of difficulties attending prosecutions for perjury and subornation of perjury, those heinous crimes have frequently 'gone unpunished, whereby wicked and evil-disposed persons are daily 'more and more emboldened to commit the same, to the great dishonour 'of God, and manifest let and hindrance of justice;' for remedy whereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in every information or indictment to be prosecuted against any person for wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court, or before whom the oath was taken (averring such court, or person or persons, to have competent authority to administer the same, together with the proper averment or averments to falsify the matter or matters wherein the perjury or perjuries is or are assigned; without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding either in law or equity, other than as aforesaid; and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed (1); any law, usage, or custom to the contrary notwithstanding.

What shall be sufficient in indictments of perjury.

II. And be it further enacted by the authority aforesaid, That in every information or indictment for subornation of perjury, or for corrupt bargaining or contracting with others to commit wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding either in law or equity, and without setting forth the commission or authority of the court, or person or persons before whom the perjury was committed, or was agreed or promised to be committed; any law, usage, or custom to the contrary notwithstanding.

Informations, &c. for subornation of perjury.

III. And the better to prevent great offenders from escaping punishment by reason of the expence attending such prosecutions: Be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any of his Majesty's justices of assize or *nisi prius*, or general gaol delivery, or any of the great sessions of the principality of *Wales*, or of the counties palatine; and they are hereby authorized (sitting the court, or within twenty-four hours after) to direct any person examined as a witness upon any trial before him or them, to be prosecuted for the said offence of perjury, in case there shall appear to him or them a reasonable cause for such prosecution, and that it shall appear to him or them proper so to do; and

Justices of assizes, &c. may direct prosecutions against persons examined before them, being guilty of perjury, and assign the

(1) Where the prosecutor in perjury undertakes to set out in the indictment more of the proceedings than he had need under the statute, he must set them forth correctly. 5 T. R. 317.

Stating that at a court of admiralty session, I. K. was in due form of law tried upon a certain indictment then and there depending against him for murder, and that at and upon the said trial it then and there became and was made a material question whether, &c. are sufficient averments that the perjury was committed on the trial of I. K. for the murder, and that the question on which the perjury was assigned was material on that trial, Rex v. Dowlin. 5 T. R. 311.

The prosecutor need only set forth in the indictment the substance of the offence charged, and by what court or before whom the oath was taken, (averring such court, &c. to have competent authority to administer the same) &c. without setting forth the commission or authority of the court, &c. 5 T. R. 317.

No. III. 23 Geo. II. c. 11.

prosecutor counsel.

The prosecution to be carried on without fees.

The clerk of assize to give the prosecutor a certificate.

to assign the party injured, or other person undertaking such prosecution, counsel, who shall and are hereby required to do their duty without any fee, gratuity, or reward for the same. And every such prosecution, so directed as aforesaid, shall be carried on without payment of any tax or duty, and without payment of any fees in court, or to any officer of the court, who might otherwise claim or demand the same: and the clerk of the assize, or his associate or prothonotary, or other proper officer of the court (who shall be attending when such prosecution is directed), shall and is hereby required, without any fee or reward, to give the party injured, or other person undertaking such prosecution, a certificate of the same being directed, together with the names of the counsel assigned him by the court; which certificate shall in all cases be deemed sufficient proof of such prosecution having been directed as aforesaid, provided that no such direction or certificate shall be given in evidence upon any trial to be had against any person upon a prosecution so directed as aforesaid.

Part V. Class XIX.

SEDUCING ARTIFICERS AND EXPORTING UTENSILS.

[No. I.] 5 George I. c. 27.—An Act to prevent the Inconveniencies arising from seducing Artificers in the Manufactures of *Great Britain* into foreign Parts.

No. I. 5 George I. c. 27.

I. 'WHEREAS divers ill-disposed persons, as well foreigners, as subjects 'of this kingdom by confederacy with foreigners, have of late 'drawn away and transported, and have also made divers attempts to en- 'tice, draw away and transport several artificers and manufacturers of and 'in wool, iron, steel, brass and other metals, clock-makers, watch-makers 'and divers other manufacturers of *Great Britain*, out of his Majesty's 'dominions into foreign countries, by entering into contracts with them to 'give them greater wages and advantages than they have or can reasonably 'expect within this kingdom, and by making them large promises and 'using other arts to inveigle and draw them away: And whereas there is 'great danger that, by means of these and such like practices, many great 'and profitable branches of the trades and manufactures of this kingdom 'may be transplanted into foreign countries:' Therefore for the preventing the like practices for the future, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if at any time hereafter any person or persons shall contract with, entice, endeavour to perswade, or solicit any manufacturer or artificer of or in wool, iron, steel, brass or any other metal, clock-maker, watch-maker or any other artificer or manufacturer of *Great Britain*, to go out of this kingdom into any foreign country out of his Majesty's dominions, and shall be lawfully convicted thereof upon any indictment or information which shall be preferred or brought against him or them in any of his Majesty's courts at *Westminster*, or at the assizes or general goal-delivery, or quarter-sessions of the peace for the county, riding or division where such offence shall be committed, the person and persons so convict shall be fined any sum not exceeding one

Persons convicted of contracting with or enticing, &c. any artificer to go into a foreign country, shall be fined not exceeding 100*l.* for the first offence, and be imprisoned for three months.

hundred pounds for such first offence (1), according to the discretion of the court in which such conviction shall be, and shall be imprisoned for the space of three months, and until such fine shall be paid; and if any person or persons, having been once convict as aforesaid, shall offend again, and be so convict a second time of the like offence, then and in such case the person, so convict a second time shall be fined at the discretion of the court where such conviction shall be and be imprisoned for twelve months and until such fine shall be paid (2).

And for the second offence shall be fined discretionally and imprisoned for twelve months.

II. Provided nevertheless, That no persons or persons shall be prosecuted for any of the offences aforesaid, unless such prosecution shall be begun within the space of twelve months next after such offence shall be committed.

Prosecution in twelve months after the offence.

III. And be it further enacted by the authority aforesaid, That if any of his Majesty's subjects within this kingdom, being such artificer or manufacturer as aforesaid, shall at any time after the first day of *May* in the year of our Lord one thousand seven hundred and nineteen, go into any country out of his Majesty's dominions, there to use or exercise, or to teach any of the said trades or manufactures to foreigners, or in case any of his Majesty's subjects now being, or who hereafter shall be in any such foreign country out of his Majesty's dominions as aforesaid, and there using or exercising any of the said trades or manufactures herein before-mentioned, shall not return into this realm within six months next after warning shall be given to him by the ambassador, envoy, resident, minister or consul of the Crown of *Great Britain* in the country in which such artificer shall be, or by any person authorized by such ambassador, envoy, resident, minister or consul, or by one of his Majesty's secretaries of state for the time being, and from thenceforth continually inhabit and dwell within this realm; then and in such case every such person or persons shall be from thenceforth incapable of taking any legacy that shall be devised to him within this kingdom, or of being an executor or administrator to any person or persons within this kingdom, and shall be incapable of taking any lands, tenements or hereditaments within this kingdom, by descent, devise or purchase, and also forfeit all his lands, tenements, hereditaments, goods and chattels within this kingdom, to his Majesty's use, and shall from thenceforth be and be deemed and taken to be an alien, and shall be put out of his Majesty's protection.

After May 1, 1719, any artificer going into a foreign country, there to exercise his trade, and not returning in six months after warning given him by the ambassador, &c. shall be incapable of taking any legacy, &c.

Forfeit all his lands, &c. and be deemed an alien.

IV. And be it further enacted by the authority aforesaid, That from and after the said first day of *May* one thousand seven hundred and nineteen, upon complaint made upon oath before any justice or justices of the peace, that any person or persons is or are endeavouring to seduce or draw away any such manufacturer or artificer as aforesaid out of his Majesty's dominions, for any the purposes aforesaid, or that any such manufacturer or artificer as aforesaid hath contracted, promised or is preparing to go out of his Majesty's dominions for any of the purposes aforesaid, then and in such case it shall and may be lawful to and for the justice or justices of the peace unto whom such complaint shall be made, to send forth his warrant to bring the person and persons so complained of before him or them, or some other of his Majesty's justices of the peace for the same county, riding, division or city; and if, when such person or persons shall be so brought before such justice or justices, it shall appear to such justice or justices, by the oath or oaths of one or more credible witness or witnesses, or by the confession of the party or parties so brought before him or them, that the party so complained of was guilty of any of the said offences, then and in such case it shall and

Justices of peace may, on complaint of any offence against this Act, issue their warrant for the apprehending of the offender, and bind him to appear at the assizes, &c.

(1) R. that only one penalty was incurred by seducing four artificers, there being only one information; R. v. Medcalfe, cited 4 Bur. 2026.

(2) The stat. 23 Geo. II. c. 13. (the next number) imposes a specific punishment upon this offence. In Rex. v. Cator, 4 Bur. 2026, Lord Mansfield said that the latter Act seems to be a repeal of the former: it was intended to supply the deficiences of the former. This expression is, in Ruffhead and Runnington's editions, supposed to mean that the statute itself was totally repealed, which seems to be a mistake, there being nothing in stat. 23. Geo. II. to affect the provisions of § 3 and 4.

No. I. 5 Geo. I. c. 27.

may be lawful to and for such justice and justices to bind the person so charged to appear at the next assizes, general gaol delivery, or quarter sessions of the peace for the county, city, riding or division where such offence shall be committed, to answer the premisses, with reasonable sureties for such his appearance; and in case such person or persons shall refuse or neglect to give such security, then and in such case it shall and may be lawful to and for such justice and justices to commit the person or persons so refusing to the county gaol, there to be kept until the next assizes or next quarter sessions of the county, city, riding or division where such commitment shall be, at the election of such justice of the peace, and until he, she, or they shall be delivered by due course of law; and in case any such artificer or manufacturer shall be convict upon any indictment to be preferred against him at such assizes or general gaol delivery, or quarter sessions of the peace as aforesaid, of any such promise or contract, or preparation to go abroad beyond the seas, for any of the purposes aforesaid, then and in such case the person so convict shall give such security to his Majesty, his heirs and successors, not to depart out of his Majesty's dominions for any of the purposes aforesaid, as such Court shall think reasonable, and shall be imprisoned until such security shall be given.

Persons refusing to give such security may be committed.

Persons convicted shall give security not to depart the kingdom, or be imprisoned till such security given.

V. And be it further enacted by the authority aforesaid, That if any of the above-mentioned offences shall be committed in that part of *Great Britain* called *Scotland*, the same shall be prosecuted in the Court of Justiciary or the circuits there.

Offenders in Scotland to be prosecuted in the Court of Justiciary or Circuits there.

[No. II.] 23 George II. c. 13.—An Act for the more effectual punishing of Persons convicted of seducing Artificers in the Manufactures of *Great Britain* or *Ireland*, out of the Dominions of the Crown of *Great Britain*; and to prevent the Exportation of Utensils made use of in the Woollen and Silk Manufactures from *Great Britain* or *Ireland*, into foreign Parts; and for the more easy and speedy Determination of Appeals, allowed in certain Cases, by an Act made in the last Session of Parliament, relating to Persons employed in the several Manufactures therein mentioned.

No. II. 23 Geo. II. c. 13.

5 G. 1. c. 27.

'WHEREAS by an Act made in the fifth year of the reign of his late 'Majesty King *George* the First, intituled, *An Act to prevent the In-* '*conveniences arising from seducing Artificers in the Manufactures of* Great 'Britain *into foreign Parts;* it is amongst other things enacted, That if 'any person or persons shall contract with, entice, endeavour to persuade 'or solicit any manufacturer or artificer of or in wooll, iron, steel, brass or 'any other metal, clock-maker, watch-maker, or any other artificer or ma- 'nufacturer of *Great Britain*, to go out of this kingdom, into any foreign 'country out of his Majesty's dominions, and shall be lawfully convicted 'thereof, in the manner prescribed by the said Act; the person and per- 'sons so convict shall be fined any sum not exceeding one hundred pounds 'for such first offence, according to the discretion of the Court, in which 'such conviction shall be, and shall be imprisoned for the space of three 'months, and until such fine shall be paid; and if any person or persons hav- 'ing been once convict as aforesaid, shall offend again, and be so convict a 'second time of the like offence, then, and in such case, the person so con- 'vict a second time, shall be fined at the discretion of the Court, where 'such conviction shall be, and shall be imprisoned for twelve months, and 'until such fine shall be paid: And whereas, notwithstanding the penalties 'to which offenders against the said Act are thereby subjected, divers wick- 'ed and evil-disposed persons have of late seduced into foreign parts seve- 'ral artificers in the woollen and other manufactures; and it is therefore 'become necessary to make some further and more effectual provision, to 'deter such persons from committing the said offences so destructive to

'the trade of this kingdom:' Therefore, for preventing the said pernicious practices for the future, and for explaining, amending and rendering more effectual the said Act, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if at any time after the twenty-fourth day of *June* one thousand seven hundred and fifty, any person or persons shall contract with, entice, persuade or endeavour to persuade, solicit or seduce any manufacturer, workman and artificer of or in wooll, mohair, cotton or silk, or of or in any manufactures made up of wooll, mohair, cotton or silk, or any of the said materials mixed one with another, or of or in iron, steel, brass or any other metal, or any clock-maker, watch-maker, or any other manufacturer, workman or artificer of or in any other of the manufactures of *Great Britain* or *Ireland*, of what nature or kind soever, to go out of this kingdom, or out of the kingdom of *Ireland*, into any foreign country, not within the dominions of or belonging to the crown of *Great Britain;* and shall be lawfully convicted thereof upon any indictment or information to be preferred or brought against him, her or them, in his Majesty's Court of *King's Bench* at *Westminster*, or by indictment at the assizes or general gaol delivery for the county, riding or division, wherein such offence shall be committed (if such offence shall be committed in that part of *Great Britain* called *England*) or by indictment in the Court of Justiciary or any of the Circuit Courts in *Scotland* (if such offence shall be committed in that part of *Great Britain* called *Scotland*) or by indictment or information in his Majesty's Court of *King's Bench* at *Dublin* (if such offence shall be committed in *Ireland*) the person or persons so convicted, shall, for every artificer, workman or manufacturer, so by him, her or them respectively contracted with, enticed, persuaded, solicited or seduced, severally forfeit the sum of five hundred pounds of lawful money of *Great Britain;* and shall also suffer imprisonment in the common gaol of the county, riding, division, shire, or stewartry, wherein such offender or offenders shall be respectively convicted, for the space of twelve calendar months, without bail or mainprize, and until such forfeiture shall be paid; and in case of a further conviction, in manner before prescribed by this Act, for or upon a second or other subsequent offence of the same kind, the person or persons so again offending shall, upon every second or other subsequent conviction, severally forfeit for every person so by him, her or them respectively contracted with, enticed, persuaded, solicited or seduced, the sum of one thousand pounds of lawful money of *Great Britain;* and shall also suffer imprisonment in the common gaol of the county, riding, division, shire or stewartry, wherein such offender or offenders shall be respectively convicted, for the space of two years, without bail or mainprize, and until such forfeiture shall be paid; any thing in the said in part recited Act of the fifth year of his said late Majesty's reign to the contrary notwithstanding.

Persons convicted of seducing artificers in the manufactures of Great Britain or Ireland, out of the dominions of Great Britain,

to forfeit 100*l.* and to be imprisoned for 12 months. And for a second offence to forfeit 1000*l.*

and to be imprisoned for 2 years.

II. Provided nevertheless, That no person shall be prosecuted for any of the offences aforesaid, unless such prosecution shall be commenced within the space of twelve calendar months next after such offence shall be committed.

Prosecution to be commenced within 12 months.

III. 'And whereas the exportation of the several tools or utensils made 'use of in preparing, working up and finishing the woollen and silk manu-'factures, or any or either of them, will enable foreigners to work up such 'manufactures, and thereby greatly diminish the exportation of the same 'from this kingdom;' Therefore, for preserving as much as possible to his Majesty's *British* subjects, the benefits arising from those great and valuable branches of trade and commerce; Be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* one thousand seven hundred and fifty, if any person or persons in *Great Britain* or *Ireland* shall, upon any pretence whatsoever, load or put on board, or cause to be loaden or put on board of any ship, vessel or boat which shall not be bound directly to some port or place in *Great Britain* or *Ireland*, or to some other of the dominions of the crown of *Great Britain*, any such tools or utensils as are commonly used in, or are proper for the pre-

Persons exporting utensils of the woollen and silk manufactures,

No. II. 23 Geo. II. c. 13.

paring, working up, or finishing of the woollen or silk manufactures, or any or either of them, or any parts or parcels of such tools or utensils, by what name or names such tools or utensils shall or may be called or known, the person or persons so offending shall, for every such offence, not only forfeit and lose all such tools and utensils, or parts or parcels thereof, which shall be so loaden or put on board as aforesaid, but also the sum of two hundred pounds of lawful money of *Great Britain*, to be recovered by action of debt, bill, plaint or information, in any of his Majesty's Courts of Record at *Westminster*, or in the Court of Session in *Scotland*, or in any of the four Courts at *Dublin* respectively, wherein no essoin, protection, privilege or wager of law, shall be allowed, or more than one imparlance.

shall forfeit the tools and 200*l.*

Officers of the customs impowered to seize tools found on board ships bound to foreign parts.

IV. And be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* one thousand seven hundred and fifty, it shall and may be lawful to and for any officer of his Majesty's customs in *Great Britain*, and for any officer of the revenue in *Ireland*, to seize and secure in some or one of his Majesty's warehouses, all such tools or utensils by this Act prohibited to be exported, as such officer shall find or discover to be laid or put on board of any ship, vessel or boat which shall not be bound directly to some port or place in *Great Britain* or *Ireland*, or to some other of the dominions of the crown of *Great Britain*, and that every officer who shall seize and secure any of the said tools or utensils, shall be fully and absolutely indemnified for so doing; and all tools or utensils so seized and secured as aforesaid, shall, after condemnation thereof, in due course of law, be publicly sold to the best bidder, and one moiety of the produce arising by the sale of such tools and utensils, shall be to the use of his Majesty, his heirs and successors, and the other moiety to the officer who shall seize and secure the same as aforesaid.

To be sold after condemnation.

Captains of vessels permitting such utensils to be put on board, to forfeit 100*l.*

V. And be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* one thousand seven hundred and fifty, if the captain or master of any ship, vessel or boat, in *Great Britain* or *Ireland*, shall knowingly permit any of the said tools or utensils by this Act prohibited to be exported as aforesaid, to be put on board his said ship, vessel or boat, every such captain or master shall, for every such offence, forfeit the sum of one hundred pounds of lawful money of *Great Britain*, to be sued for and recovered in the same manner as the penalties by this Act inflicted upon persons exporting the said tools or utensils are to be sued for and recovered; and if the said ship, vessel or boat belongs to his Majesty, his heirs or successors, then the captain or master thereof shall not only forfeit the sum of one hundred pounds of lawful money of *Great Britain*, to be sued for and recovered as aforesaid, but shall also forfeit his employment, and be incapable of any office or employment under his Majesty, his heirs or successors.

Captains of his Majesty's ships to forfeit 100*l.* and to be cashiered.

Officer of the custom-house, signing cockets, &c. for the exporting such tools,

VI. And be it further enacted by the authority aforesaid, That if any customer, comptroller, surveyor, searcher, waiter or other officer of the customs in *Great Britain*, or any officer of the revenue in *Ireland*, shall take, or knowingly or willingly suffer to be taken, any entry outward, or shall sign any cocket, warrant or sufferance for the shipping or exporting of any of the said tools or utensils by this Act prohibited to be exported, or shall knowingly or willingly permit or suffer the same to be done, directly or indirectly, contrary to the true intent and meaning of this Act, every such customer, comptroller, surveyor, searcher, waiter or other officer of the customs in *Great Britain*, or officer of the revenue in *Ireland* so offending, shall forfeit the sum of one hundred pounds of lawful money of *Great Britain*, to be sued for and recovered as aforesaid; and shall also forfeit his office, and be incapable of any office or employment under his Majesty, his heirs or successors.

to forfeit 100*l.* and his employment.

One moiety to the King, the other to the prosecutor.

VII. And be it further enacted by the authority aforesaid, That one moiety of the respective forfeitures by this Act inflicted upon offenders against the same, shall, when recovered, go and be applied to the use of his Majesty, his heirs and successors, and the other moiety to the use of the person or persons who shall sue and prosecute for the same respectively.

Limitation of actions.

VIII. And be it further enacted by the authority aforesaid, That if any suit or action shall be commenced against any person for what he shall do

No. II.
23 Geo. II. c. 13.

in pursuance of this Act, such action shall be commenced within six months after the fact committed; and the person so sued may file common bail, or enter a common appearance, and plead the general issue, not guilty, and may give this Act and the special matter in evidence; and if the plaintiff or prosecutor shall become nonsuit, or suffer discontinuance, or if a verdict pass against him, or if, upon demurrer, judgment be given against him, the defendant shall recover treble costs.

General issue. Treble costs.

[No. III.] 14 George III. c. 71.—An Act to prevent the Exportation to foreign Parts of Utensils made use of in the Cotton, Linen, Woollen, and Silk Manufactures of this Kingdom.

No. III.
14 Geo. III. c. 71.

'WHEREAS the exportation of the several tools or utensils made use of in preparing, working up, and finishing the cotton and linen manufactures of this kingdom, or any or either of them, or any other goods wherein cotton and linen, or either of them, are used, will enable foreigners to work up such manufactures, and thereby greatly diminish the exportation of the same from this kingdom:' Therefore for preserving as much as possible to his Majesty's *British* subjects the benefits arising from those great and valuable branches of trade and commerce, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if at any time after the first day of *July* one thousand seven hundred and seventy-four, any person or persons, in *Great Britain* or *Ireland*, shall upon any pretence whatsoever, load or put on board, or cause to be laden or put on board, of any ship, vessel or boat, which shall not be bound directly to some port or place in *Great Britain* or *Ireland*, any such tools or utensils, as are commonly used in, or are proper for the preparing, working up, or finishing, of the cotton or linen manufactures, or any or either of them, or any other goods wherein cotton and linen, or either of them are used, or any parts or parcels of such tools or utensils, by what name or names the same shall or may be called or known; the person or persons so offending shall, for every such offence, not only forfeit and lose all such tools and utensils, or parts or parcels thereof, which shall be so laden or put on board as aforesaid, but also the sum of two hundred pounds of lawful money of *Great Britain;* to be recovered by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at *Westminster*, or in the Court of Session in *Scotland*, or in any of the four Courts of *Dublin* respectively, wherein no essoin, protection, privilege, or wager of law, shall be allowed, or more than one imparlance.

Persons shipping tools used in the cotton or linen manufactures, in order to export the same,

to forfeit all such tools, &c. and 200*l*.

II. And be it further enacted by the authority aforesaid, That from and after the first day of *July*, it shall and may be lawful to and for any officer of his Majesty's customs in *Great Britain*, and for any officer of the revenue in *Ireland*, to seize and secure, in some or one of his Majesty's warehouses, all such tools or utensils, or parts or parcels thereof, by this Act prohibited to be exported, as such officer shall find or discover to be laid or put on board of any ship, vessel, or boat, which shall not be bound directly to some port or place in *Great Britain* or *Ireland*, and that every officer who shall seize and secure any of the said tools or utensils, or parts or parcels thereof, shall be fully and absolutely indemnified for so doing; and all tools and utensils, or parts or parcels thereof, so seized and secured as aforesaid, shall, after condemnation thereof in due course of law, be publickly sold to the best bidder, and one moiety of the produce arising by the sale of such tools and utensils shall be to the use of his Majesty, his heirs and successors, and the other moiety to the officer who shall seize and secure the same as aforesaid.

Officers to seize all tools, &c.

which may be publickly sold, &c.

III. And be it further enacted by the authority aforesaid, That, from and after the said first day of *July*, if the captain or master of any ship, vessel, or boat, in *Great Britain* or *Ireland*, shall knowingly permit any tools or utensils, by this Act prohibited to be exported as aforesaid, to be put on board his said ship, vessel, or boat, every such captain or master shall, for

Master permitting such tools to be exported, forfeits 200*l*.;

No. III. 14 Geo. III. c. 71.

every such offence, forfeit the sum of two hundred pounds of lawful money of *Great Britain*; to be sued for and recovered in such manner as the penalties by this Act upon persons exporting the said tools and utensils are to be sued for and recovered: And if the said ship, vessel, or boat, belongs to his Majesty, his heirs or successors, then the captain or master thereof shall not only forfeit the sum of two hundred pounds, to be sued for and recovered as aforesaid, but shall also forfeit his employment, and be incapable of any office or employment under his Majesty, his heirs or successors.

and captain forfeits 200*l.* and his commission.

IV. And be it further enacted by the authority aforesaid, That if any customer, comptroller, surveyor, searcher, waiter, or other officer of the customs in *Great Britain*, or any officer of the revenue in *Ireland*, shall take, or knowingly or willingly suffer to be taken, any entry outward, or shall sign any cocket, warrant, or sufferance, for the shipping or exporting of any of the said tools or utensils by this Act prohibited to be exported, or shall knowingly or willingly permit or suffer the same to be done, directly or indirectly, contrary to the true intent and meaning of this Act, every such customer, comptroller, surveyor, searcher, waiter, or other officer of the customs of *Great Britain*, or officer of the revenue in *Ireland*, shall, for every such offence, forfeit the sum of two hundred pounds of lawful money of *Great Britain*, to be sued for and recovered as aforesaid, and shall also forfeit his office, and be incapable of holding any office or employment under his Majesty, his heirs or successors.

Officer allowing an entry of such prohibited utensils, to forfeit 200*l.* and his office.

V. And be it further enacted by the authority aforesaid, That if any person or persons, from and after the said first day of *July*, shall collect, obtain, or have in his, her or their custody or possession any such tools or implements as aforesaid, or any tools or implements used in the woollen or silk manufactures of this kingdom, or any parts or parcels thereof, and complaint shall be made upon the oath of one or more credible witness or witnesses, before any justice or justices of the peace, that there is reason to believe such person or persons have or hath collected, obtained, or got into his, her, or their custody or possession, such tools or implements as aforesaid, or parts or parcels thereof, with intent to export the same to some other port or place than *Great Britain* or *Ireland*; then, and in such case, it shall and may be lawful to and for the justice or justices of the peace, unto whom such complaint shall be made, to issue his warrant or warrants, not only to seize all such tools or implements, and parts or parcels thereof, but also to bring the person and persons so complained of before him or them, or some other of his Majesty's justices of the peace for the same county, riding, division, or city; and if, when such person or persons shall be so brought before such justice or justices, he, she, or they shall not give such an account of the use or purpose to which such tools or utensils, or parts or parcels thereof, are intended to be appropriated, as shall be satisfactory to the justice or justices before whom he, she, or they shall be brought as aforesaid, then, and in such case, it shall and may be lawful to and for such justice or justices, not only to cause all such tools or utensils, or parts or parcels thereof, which shall have been seized as aforesaid, to be detained, but also to bind the person or persons so charged to appear at the next assizes, general gaol delivery, or quarter sessions of the peace for the county, city, riding, or division, where such offence shall be committed, with reasonable sureties for his, her, or their appearance; and in case such person or persons shall refuse or neglect to give such security, then, and in such case, it shall and may be lawful to and for such justice and justices to commit the person or persons so refusing to the county gaol, there to be kept until the next assizes, or next quarter sessions, of the county, city, riding, or division, where such commitment shall be, at the election of such justice of the peace, and until he, she, or they, shall be delivered by due course of law: And in case any such person or persons shall be convicted upon any indictment or information against him, her, or them, at such assize or general gaol delivery, or quarter sessions of the peace as aforesaid, of collecting, obtaining, or getting into his, her, or their custody or possession, such tools or utensils, or parts or parcels thereof, with such intent as aforesaid; then, and in such case, the person or persons so offending, shall, for every such offence, not only for-

Any person collecting such tools, in order to export the same.

Justices may grant warrants, &c.

And in case such person be convicted he shall lose all such utensils, and forfeit 200*l.*

feit and lose all such tools and utensils, and parts and parcels thereof, which shall be so seized and detained, but also the sum of two hundred pounds of lawful money of *Great Britain*; to be recovered by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at *Westminster*, or in the Court of Session in *Scotland*, or in any of the four Courts at *Dublin* respectively, wherein no essoin, protection, privilege, wager of law, or more than one imparlance, shall be allowed. No. III. 14 Geo. III. c. 71.

VI. And be it further enacted by the authority aforesaid, That one moiety of the respective forfeitures by this Act inflicted upon offenders against the same, shall, when recovered, go and be applied to the use of his Majesty, his heirs and successors, and the other moiety to the use of the person or persons who shall sue and prosecute for the same respectively. Forfeitures.

VII. And be it further enacted by the authority aforesaid, That if any suit or action shall be commenced against any person, for what he shall do in pursuance of this Act, such action shall be commenced within six months after the fact committed; and the person so sued may file common bail, or enter a common appearance, and plead the general issue, not guilty; and may give this Act, and the special matter in evidence; and if the plaintiff or prosecutor shall become nonsuit, or suffer discontinuance, or if a verdict pass against him or her, or if, upon demurrer, judgment be given against the plaintiff, the defendant shall recover treble costs. Limitation of actions. General issue. Treble costs.

[No. IV.] 15 George III. c. 5.—An Act to repeal so much of an Act made in the fourteenth Year of the Reign of his present Majesty, intituled, *An Act to prevent the Exportation to Foreign Parts of Utensils made use of in the Cotton, Linen, Woollen, and Silk Manufactures of this Kingdom*, as relates to Wool Cards used in the Woollen Manufactures of this Kingdom, intended to be exported to any of his Majesty's Colonies or Plantations in *America*.

[No. V.] 21 George III. c. 37.—An Act to explain and amend an Act made in the fourteenth Year of the Reign of his present Majesty, intituled, *An Act to prevent the Exportation to foreign Parts of Utensils made use of in the Cotton, Linen, Woollen, and Silk Manufactures of this Kingdom.*

No. V. 21 Geo. III. c. 37.

'WHEREAS by an Act, made in the fourteenth year of the reign of his present Majesty, intituled, *An Act to prevent the Exportation to foreign Parts of Utensils made use of in the Cotton, Linen, Woollen, and Silk Manufactures of this Kingdom*, certain provisions, penalties, and forfeitures, are provided, inflicted, and imposed, for the purpose of preventing and prohibiting the exportation into foreign parts (except to any port or place within *Great Britain* or *Ireland*) of all such tools or utensils as are commonly used in, or are proper for the preparing, working up, or finishing, of the cotton or linen manufactures of this kingdom; and also for the preventing and prohibiting all and every person or persons whomsoever from the collecting, obtaining, or having in his, her, or their custody or possession, with intent to export, any tools or implements used as well in the said cotton or linen, as in the woollen or silk manufactures of this kingdom: And whereas the penalties and forfeitures to which offenders against the said Act are thereby subjected and made liable, and the provisions, powers, and remedies thereby made and provided, for the recovery and enforcing of such penalties and forfeitures, are found inadequate to the prevention of the evils thereby intended to be remedied; and it is therefore become necessary to make some further and more effectual provision to deter persons from committing the said offences, so destructive to the trade of this kingdom: Therefore, for the better preserving to his Preamble. Act 14 G. 3. recited.

No. V. 21 Geo. III. c. 37.

'Majesty's subjects the benefits arising from those great and valuable 'branches of trade and commerce, and for preventing the said pernicious 'practices for the future, and for explaining, amending, and rendering more 'effectual the said recited Act,' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if, at any time after the twenty-fourth day of *June* one thousand seven hundred and eighty-one, any person or persons in *Great Britain* or *Ireland* shall, upon any pretence whatsoever, load, or put on board, or pack, or cause or procure to be loaden, put on board, or packed, in order to be loaded or put on board of any ship or vessel, which shall not be bound directly to some port or place in *Great Britain* or *Ireland*, or shall lade, or cause or procure to be laden, on board any boat or other vessel, or shall bring, or cause to be brought, to any quay, wharf, or other place, in order to be so laden or put on board any such ship or vessel, any machine, engine, tool, press, paper, utensil, or implement whatsoever, which now is, or at any time or times hereafter shall or may be used in, or proper for the preparing, working, pressing, finishing, or completing, of the woollen, cotton, linen, or silk manufactures of this kingdom, or any or either of them, or any other goods wherein wool, cotton, linen, or silk, or any or either of them, are or is used, or any part or parts of such machine, engine, tool, press, paper, utensil, or implement, by what name or names soever the same shall be called or known; or any model or plan, or models or plans, of any such machine, engine, tool, press, paper, utensil, or implement, or any part or parts thereof, and complaint being made, upon the oath of one or more credible witness or witnesses, before any justice or justices of the peace, it shall and may be lawful to and for such justice or justices of the peace to issue his or their warrant or warrants, not only to seize all such machines, engines, tools, press, papers, utensils, or implements, and part or parts thereof, and all such model or plan, models or plans, and part or parts thereof, together with the packages, and all other goods packed therewith, if any such there be, but also to bring the person or persons so complained of before him or them, or some other of his Majesty's justices of the peace for the same county, city, riding, division, liberty, shire, stewartry, or place; and if, when such person or persons shall be brought before such justice or justices, he, she, or they, shall not give such an account of the use or purpose to which such machines, engines, tools, press, papers, utensils, or implements, and part or parts thereof, and all such model or plan, models or plans, and part or parts thereof, are intended to be appropriated, as shall be satisfactory to the justice or justices before whom he, she, or they, shall be brought as aforesaid, then, and in such case, it shall and may be lawful to and for such justice or justices, not only to cause all such machines, engines, tools, press, papers, utensils, or implements, models or plans, or part or parts thereof, which shall have been seized as aforesaid, together with the packages, and all other goods packed therewith, to be detained, but also to bind the person or persons so charged to appear at the next assizes, general gaol delivery, or quarter sessions of the peace for the county, city, riding, division, stewartry, or place where such offence shall be committed, with reasonable sureties for his, her, or their appearance; and in case such person or persons shall refuse or neglect to give such security, then, and in such case, it shall and may be lawful to and for such justice or justices to commit the person or persons so refusing to the common gaol or house of correction, there to be kept until the next assizes, or next quarter sessions, of the county, city, riding, division, shire, stewartry, or place, where such commitment shall be, and until he, she, or they, shall be delivered by due course of law; and in case any such person or persons shall be convicted of any of the offences aforesaid, upon any indictment or information against him, her, or them, at such assizes or quarter-sessions of the peace as aforesaid, the person or persons so offending shall, for every such offence, not only forfeit all such machines, engines, tools, press, paper, utensils, or implements, models or plans, and part or parts thereof respectively, together with the packages, and all other goods packed therewith, if any such there be, but also the sum of two hundred

After June 24, 1781, if any person, in Great Britain or Ireland, shall pack or put on board any vessel any machine, tool, or utensil used in the woollen, cotton, linen, or silk manufactures, or any model of such machine, &c.

any justice may grant a warrant for seizing such machines, &c. and bringing such person before him;

and if a satisfactory account be not given to the justice, he may detain such machines, &c. and bind the party to appear at the next assizes, &c.

On neglect of giving security, the party may be committed.

Penalty on conviction.

pounds of lawful money of *Great Britain*; and shall also suffer imprisonment in the common gaol, prison, or house of correction, of the county, city, riding, division, liberty, shire, stewartry, or place, wherein such offender or offenders shall be respectively convicted, for the space of twelve months, without bail or mainprize, and until such forfeiture shall be paid.

Custom-house officers impowered to seize all such machines, &c. going to be exported.

II. And be it further enacted by the authority aforesaid, That, from and after the said twenty-fourth day of *June*, it shall and may be lawful to and for any officer of his Majesty's customs in *Great Britain*, and to and for any officer of the revenue in *Ireland*, and they are hereby required to seize, and secure in some or one of his Majesty's warehouses, all such machines, engines, tools, press, papers, utensils, or implements, or part or parts thereof, and all and every such model or plan, models or plans, or part or parts thereof, as such officer shall find or discover, to be laid or put on board, or intended to be laid or put on board of any ship, vessel, or boat, which shall not be bound directly to some port or place in *Great Britain* or *Ireland*, contrary to the true intent and meaning of this Act, together with the packages, and all other goods packed therewith, if any such there be, and they are hereby indemnified in so doing; and all machines, engines, tools, press, papers, utensils, and implements, or part or parts thereof, model or plan, models or plans, or part or parts thereof, together with the packages and other goods packed therewith, so seized and secured as aforesaid, shall, after condemnation thereof in due course of law, be publickly sold to the best bidder, by order of the commissioners of the customs in *Great Britain*, or commissioners of the revenue in *Ireland* respectively; and one moiety of the produce arising by the sale thereof, after deducting the charges of condemnation and sale, shall be to the use of his Majesty, his heirs and successors, and the other moiety to the officer who shall seize and prosecute the same as aforesaid.

Penalty on captains taking on board any such machines, &c.

III. And be it further enacted by the authority aforesaid, That, from and after the said twenty-fourth day of *June*, if the captain or master of any ship, vessel, or boat, in *Great Britain* or *Ireland*, shall knowingly or designedly permit or suffer any machine, engine, tool, press, paper, utensil, or implement, or part or parts thereof, or any model or plan, or part or parts thereof, by this Act prohibited to be exported as aforesaid, to be put on board his said ship, vessel, or boat, every such captain or master shall, for every such offence, forfeit the sum of two hundred pounds; and if the said ship, vessel, or boat, shall belong to his Majesty, his heirs or successors, then the captain, or master thereof, shall not only forfeit the sum of two hundred pounds, but shall also forfeit his employment, and be incapable of holding any office or employment under his Majesty, his heirs or successors.

Penalty on custom-house officers who shall take any entry outward, &c. for exporting any such prohibited machines, &c.

IV. And be it further enacted by the authority aforesaid, That if any customer, comptroller, surveyor, searcher, waiter, or other officer of the customs in *Great Britain*, or any officer of the revenue in *Ireland*, shall take, or knowingly or willingly suffer to be taken, any entry outward, or shall sign any cocket, warrant, or sufferance, for the shipping or exporting of any of the said machines, engines, tools, press, papers, utensils, or implements, or any part or parts thereof, or any of the said models or plans, or any part or parts thereof, by this Act prohibited to be exported, or shall knowingly or willingly permit or suffer the same to be done, directly or indirectly, contrary to the true intent and meaning of this Act, every such customer, comptroller, surveyor, searcher, waiter, or other officer of the customs of *Great Britain*, or officer of the revenue in *Ireland*, shall, for every such offence, forfeit the sum of two hundred pounds, and shall also forfeit his office, and be incapable of holding any office or employment under his Majesty, his heirs or successors.

Penalties and forfeitures how to be recovered and applied.

V. And it is hereby further enacted by the authority aforesaid, That the several penalties and forfeitures herein before mentioned (the manner of recovery whereof is not herein before particularly directed) shall and may be sued for and recovered, by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at *Westminster*, or in the Court of Session in *Scotland*, or in any of the four Courts at *Dublin*, in the name of his Majesty's attorney general, or lord advocate, or in the name of some

No. V.
21 Geo. III. c. 37.

officer or officers of the customs in *Great Britain*, or some officer or officers of the revenue in *Ireland* respectively, wherein no essoign, protection, privilege, wager of law, or more than one imparlance, shall be allowed; and that one moiety of the said penalties and forfeitures shall go and be applied to the use of his Majesty, his heirs and successors, and the other moiety to the use of such officer or officers of the customs or revenue as shall sue and prosecute for the same respectively, after deducting the charges of prosecution from the whole.

If oath shall be made before a justice of any such prohibited machines, &c. being intended to be exported, they may be seized and detained, and the person in whose possession they are found may be bound to appear at the next assizes, &c.

VI. And be it further enacted by the authority aforesaid, That, from and after the said twenty-fourth day of *June*, if any person or persons hath or have in his, her, or their custody, power, or possession, or shall collect, obtain, make, apply for, or cause or procure to be made, any such machine, engine, tool, press, paper, utensil, or implement, or any part or parts thereof, or any such model or plan, models or plans, or part or parts thereof as aforesaid, with intent to export, or that the same may be exported to some other port or place than *Great Britain* or *Ireland*, and complaint being made, upon the oath of one or more credible witness or witnesses, before any justice or justices of the peace, that there is reason to believe such person or persons hath or have in his, her, or their custody, power, or possession, or hath or have collected, obtained, made, applied for, or caused or procured to be made, any such machine, engine, tool, press, paper, utensil, or implement, or part or parts thereof, or any such model or plan, or models or plans, or part or parts thereof, as aforesaid, with intent to export, or that the same may be exported to some other port or place than *Great Britain* or *Ireland*; then, and in any of the said cases, it shall and may be lawful to and for the said justice or justices of the peace to issue his or their warrant or warrants to seize all such machines, engines, tools, press, papers, utensils, or implements, or part or parts thereof, and all such models or plans, or part or parts thereof, as aforesaid, and to bring the person or persons so complained of before him or them, or some other of his Majesty's justices of the peace for the same county, city, riding, division, shire, stewartry, or place; and if such person or persons shall not give such an account of the use or purpose to which such machines, engines, tools, press, papers, utensils, or implements, or part or parts thereof, models or plans, or part or parts thereof, is, are, or were intended to be appropriated, as shall be satisfactory to the justice or justices before whom he, she, or they shall be brought as aforesaid, then, and in such case, it shall and may be lawful to and for such justice or justices to cause all such machines, engines, tools, press, paper, utensils, or implements, or part or parts thereof, models or plans, or part or parts thereof, which shall have been so seized as aforesaid, to be detained, and also to bind the person or persons so charged to appear at the next assizes, general gaol delivery, or quarter sessions of the peace, for the county, city, riding, division, shire, stewartry, or place where such offence shall be committed, with reasonable sureties for his, her, or their appearance; and in case such person or persons shall refuse or neglect to give such security, then, and in such case, it shall and may be lawful to and for such justice or justices to commit such person or persons to the county gaol, prison, or house of correction, there to remain until the next assizes or quarter sessions of the county, city, riding, division, liberty, stewartry, or place where such commitment shall be, and until he, she, or they shall be delivered by due course of law; and in case any such person or persons shall be convicted, upon any indictment or information against him, her, or them, at such assizes or quarter sessions of the peace as aforesaid, of having in his, her, or their custody, power, or possession, or of having collected, obtained, made, applied for, or caused or procured to be made, any such machine, engine, tool, press, paper, utensil, or implement, or part or parts thereof, model or plan, or part or parts thereof, with such intent as aforesaid, then, and in such case, the person or persons so convicted shall, for every such offence, forfeit and lose all such machines, engines, tools, press, papers, utensils, or implements, or part or parts thereof, models or plans, or part or parts thereof, which shall be so seized and detained, and also the sum of two hundred pounds of lawful money of *Great Britain*, and shall suffer imprisonment in the common gaol of the

on neglect of giving security, the party may be committed.

Penalty on conviction.

No. V. 21 Geo. III. c. 37.

county, city, riding, division, shire, stewartry, or place, wherein such offender or offenders respectively shall be convicted, for the space of twelve months, without bail or mainprize, and until such forfeiture shall be paid. Provided nevertheless, That no person shall be prosecuted for any of the offences aforesaid, in this clause mentioned, unless such prosecution shall be commenced within the space of twelve months next after such offence shall be committed.

Prosecution to be commenced within twelve months.

VII. And be it further enacted by the authority aforesaid, That the respective forfeitures by this Act inflicted upon offenders against the same, shall, when recovered (where the same is not by this Act otherwise provided), go and be applied to the use of the informer, after the expences of the prosecution are paid.

Forfeitures (where not otherwise provided) to go to the informer.

VIII. And be it further enacted by the authority aforesaid, That if any suit or action shall be commenced against any person for what he shall do in pursuance of this Act, such suit or action shall be commenced within six months next after the fact committed, and the person so sued may file common bail, or enter a common appearance, and plead the general issue not guilty, and may give this Act and the special matter in evidence; and if the plaintiff or prosecutor shall become nonsuit, or suffer discontinuance, or if a verdict pass against him or her, or if upon demurrer judgment shall be given against the plaintiff, the defendant shall recover treble costs.

Limitations of actions.

General issue.

Treble costs.

IX. Provided always, That nothing herein contained shall extend to the preventing wool cards, or stock cards, not exceeding in value four shillings per pair, and spinners' cards not exceeding in value one shilling and sixpence per pair, used in the said woollen manufacture, from being exported to any of his Majesty's colonies or plantations in *America*.

Not to extend to wool cards, &c. exported to America.

[No. VI.] 22 George III. c. 60.—An Act to prevent the seducing of Artificers or Workmen employed in printing Callicoes, Cottons, Muslins, and Linens, or in making or preparing Blocks, Plates, or other Implements used in that Manufactory, to go to Parts beyond the Seas; and to prohibit the exportation to foreign Parts of any such Blocks, Plates, or other Implements.

No. VI. 22 Geo. III. c. 60.

'WHEREAS the business or manufactory of printing callicoes, cottons, muslins, and linens, with wooden blocks, has been long carried on in 'this kingdom, greatly to the advantage of the publick, and has of late 'years been much improved by using therein engraved plates of copper or 'other metal, and thereby the sale of such goods has been considerably 'increased, and large quantities exported: And whereas, for the encourag-'ing of such manufactory in this kingdom, it is necessary that provision 'should be made to prevent artificers and others employed therein, or in 'making or repairing such blocks and plates, from departing, or from 'being seduced to depart, out of this kingdom; and to prohibit the ex-'portation of any blocks, plates, engines, tools, or utensils, to be used in 'such manufactory:' May it therefore please your Majesty, that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the passing of this Act, if any person or persons shall contract with, entice, persuade, or endeavour to seduce or encourage, any artificer or workman concerned or employed, or who shall have worked at, or been employed in, printing callicoes, cottons, muslins, or linens of any sort, or in making or preparing any blocks, plates, engines, tools, or utensils, for such manufactory, to go out of *Great Britain*, to any parts beyond the seas, and shall be convicted thereof, upon indictment or information in the court of King's Bench at *Westminster*, or by indictment at the assizes or general gaol delivery for the county or place wherein

Penalty on enticing workmen employed in printing callicoes, cottons, &c.

such offence shall be committed, or the offender or offenders shall live or reside, or by indictment in the Court of Justiciary or any of the circuit courts in *Scotland*, as the case may be; every person so convicted shall, for every artificer so contracted with, enticed, persuaded, encouraged, or seduced, or attempted so to be, forfeit and pay the sum of five hundred pounds of lawful money of *Great Britain*, and shall be committed to the common gaol for the county, place, or stewartry, wherein the offender or offenders shall be convicted, there to remain, without bail or mainprize, for the space of twelve calendar months, and until such forfeiture shall be paid; and in a case of a subsequent offence of the same kind, the person or persons so again offending, shall, upon the like conviction, forfeit and pay, for every person so contracted with, enticed, persuaded, encouraged, or seduced, or attempted so to be, the sum of one thousand pounds of lawful money of *Great Britain*, and shall be committed to the common gaol as aforesaid, there to remain, without bail or mainprize, for and during the term of two years, and until such forfeiture shall be paid.

Prosecution in twelve months.

II. Provided always, That no person shall be prosecuted for any of the offences aforesaid, unless such prosecution shall be commenced within the space of twelve calendar months next after such offence shall be committed.

Penalty on exporting or attempting to export any blocks, &c.

III. And be it further enacted, That from and after the passing of this Act, it shall not be lawful for any person or persons whomsoever to export from *Great Britain* to any parts beyond the seas, any blocks, plates, engines, tools, or utensils, commonly used in, or which are proper for the preparing, working up, or finishing of the calico, cotton, muslin, or linen printing manufactures, or any part or parts of such blocks, plates, engines, tools, or utensils; and if any person or persons shall put or endeavour to put on board any ship, boat, barge, lighter, or other vessel, not bound directly to some port in *Great Britain*, any such blocks, plates, engines, tools or utensils, or part or parts thereof, every such person shall forfeit all such blocks, plates, engines, tools, or utensils, or part or parts thereof; and also shall forfeit and pay the sum of five hundred pounds of lawful money of *Great Britain*, to be recovered by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at *Westminster*, or in the Court of Session in *Scotland* respectively, wherein no essoin, protection, or wager of law, nor more than one imparlance, shall be allowed.

Officers empowered to seize such blocks, &c.

IV. And be it further enacted, That, from and after the passing of this Act, it shall be lawful for any officer or officers of his Majesty's customs or excise, and they are hereby required and directed, from time to time, to seize, and secure in some of his Majesty's warehouses, all such blocks, plates, engines, tools, or utensils, or part or parts thereof, the exportation whereof is hereby prohibited, as he or they shall find, or be informed to be on board, or in a way of being put on board any ship, boat, barge, lighter, or other vessel, not bound directly to some port in *Great Britain*; and all blocks, plates, engines, tools, or utensils, or part or parts thereof, so seized, shall, after condemnation thereof in due course of law, be publickly sold to the best bidder, to be used in *Great Britain*, and not elsewhere; and one moiety of the produce shall go to the use of his Majesty, his heirs and successors, and the other moiety to the officer or officers who shall have seized and secured the same.

Penalty on captains, &c. who shall permit such blocks, &c. to be put on board.

V. And be it further enacted, That, from and after the passing of this Act if the captain, master, mate, or other officer, of any ship or other vessel in *Great Britain* or *Ireland*, shall willingly or knowingly permit or suffer any such blocks, plates, engines, tools, or utensils, or part or parts thereof, to be put on board his or their ship or other vessel, or shall connive at the same being done, he or they shall, for every such offence, forfeit and pay the sum of one hundred pounds of lawful money of *Great Britain*, to be recovered as the penalties by this Act imposed on persons exporting blocks, or other things, as aforesaid, are directed to be recovered; and if the ship or vessel belong to his Majesty, his heirs or successors, the captain, or other officer or officers thereof, so permitting, suffering, or conniving, shall, besides forfeiting the said sum of one hundred pounds, be, and is and are hereby declared to be incapable of holding any office or commission under his Majesty, his heirs and successors.

No. VI.
22 Geo. III. c. 60.

VI. And be it further enacted, That, from and after the passing of this Act, if any officer or officers of his Majesty's customs shall take, or knowingly and willingly permit or allow, or suffer to be taken, any entry or entries outward, or sign any cocket or cockets or sufferance, for the shipping or exporting of any of the said blocks, plates, engines, tools, or utensils, or part or parts thereof, or knowingly suffer the same to be done, he or they shall forfeit and pay the sum of one hundred pounds of lawful money of *Great Britain*, to be recovered in manner aforesaid; and shall also forfeit and lose his or their office or employment, and be for ever rendered incapable of holding any office or employment under his Majesty, his heirs or successors.

Penalty on officers who shall take an entry outward for exporting any of the said blocks, &c.

VII. And be it further enacted, That one moiety of the respective forfeitures, by this Act inflicted on offenders against the same, shall, when recovered, go and be applied to the use of his Majesty, his heirs and successors; and the other moiety to the use of the person or persons who shall sue and prosecute for the same respectively.

Forfeitures.

VIII. And be it further enacted, That if any action or suit shall be commenced against any person for what he shall do in pursuance of this Act, such action or suit shall be commenced within six calendar months next after the fact committed; and the person so sued shall and may file common bail, and enter a common appearance, and plead the general issue not guilty, and may give this Act and the special matter in evidence; and if the plaintiff or prosecutor shall become nonsuit, or suffer discontinuance, or if a verdict shall pass against him, or if, upon demurrer, judgment shall be given against him, then, and in any of the cases aforesaid, the defendant shall recover treble costs.

Limitation of actions.

General issue.

Treble costs.

[No. VII.] 25 George III. c. 67.—An Act to prohibit the Exportation to foreign Parts, of Tools and Utensils made use of in the Iron and Steel Manufactures of this Kingdom; and to prevent the seducing of Artificers or Workmen, employed in those Manufactures, to go into Parts beyond the Seas.

No. VII.
25 Geo. III. c. 67.

'WHEREAS the exportation of the several tools and utensils made use of in preparing, working up, and finishing the iron and steel manufactures of this kingdom, or either of them, will enable foreigners to work up such manufactures, and thereby greatly diminish the exportation of the same from this kingdom;' therefore, for the preserving, as much as possible, to his Majesty's subjects the benefits arising from those great and valuable branches of trade and commerce, may it please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if, at any time after the first day of *August* one thousand seven hundred and eighty-five, any person or persons in *Great Britain* shall, upon any pretence whatsoever, export, load, or put on board, or pack, or cause or procure to be loaden, put on board, or packed, in order to be loaded or put on board of any ship or vessel which shall be bound to some port or place in parts beyond the seas (except to *Ireland*), or shall lade, or cause or procure to be laden, on board any boat or other vessel, or shall bring, or cause to be brought, to any quay, wharf, or other place, in order to be so laden or put on board any such ship or vessel, any tool or utensil hereafter mentioned; that is to say, hand stamps, dog head stamps, pulley stamps, stamps of all sorts, hammers and anvils for stamps, screws for stamps, iron rods for stamps, presses of all sorts, in iron, steel, or other metal, which are used for giving impressions to metal, or any parts of these several articles; presses of all sorts called *cutting-out presses*, beds and punches to be used therewith; piercing presses of all sorts, beds and punches to be used therewith, either in parts or pieces, or fitted together; iron or steel dies to be used in stamps or presses either with or without impressions on them; rollers of cast iron, wrought iron, or steel,

No person to put on board any vessel for exportation, any tool, &c. in the Act specified,

No. VII. 25 Geo. III. c. 67.

for rolling of metal, and frames for the same; flasks or casting moulds, and boards used therewith; lathes of all sorts for turning, burnishing, polishing, either the whole together, or separate parts thereof: lathe strings, polishing brushes, scoring or shading engines, presses for horn buttons, dies for horn buttons, sheers for cutting of metal, rolled steel, rolled metal with silver thereon, parts of buttons not fitted up into buttons, or in an unfinished state; engines for chasing, stocks for casting buckles, buttons, and rings; cast iron anvils and hammers for forging mills for iron and copper; roles, slitters, beds, pillars and frames for slitting mills; die-sinking tools of all sorts, engines for making button shanks, laps of all sorts, drilling engines, tools for pinching of glass, engines for covering of whips, polishing brushes, bars of metal covered with gold or silver, iron or steel screw plates, pins, and stocks for making screws, or any other tool or utensil whatsoever, which now is, are, or at any time or times hereafter shall or may be used in, or proper for the preparing, working, finishing, or completing of the iron or steel manufactures of this kingdom, or either of them, by what name or names soever the same shall be called or known, or any model or plan, or models or plans, of any such tool, utensil, or implement, or any part or parts thereof; the person or persons so offending, shall for every such offence, not only forfeit and lose all such tools or utensils, or parts or parcels thereof, together with the packages, and all other goods packed therewith, if any such there be, and complaint being made, upon the oath of one or more credible witness or witnesses, before any justice or justices of the peace, it shall and may be lawful to and for such justice or justices of the peace to issue his or their warrant or warrants to bring the person or persons so complained of before him or them, or some other of his Majesty's justices of the peace for the same county, city, riding, division, liberty, shire, stewartry, or place; and if, when such person or persons shall be brought before such justice or justices, he, she, or they shall not give such an account of the use or purpose to which such tools, utensils, or implements, and part or parts thereof, and all such model or plan, models or plans, and part or parts thereof, are intended to be appropriated, as shall be satisfactory to the justice or justices before whom he, she, or they shall be brought as aforesaid, then, and in such case, it shall and may be lawful to and for such justice or justices to bind the person or persons so charged to appear at the next assizes, general gaol delivery, or quarter-sessions of the peace, for the county, city, riding, division, stewartry, or place where such offence shall be committed, with reasonable sureties for his, her, or their appearance, and in case such person or persons shall refuse or neglect to give such security, then, and in such case, it shall and may be lawful to and for such justice or justices to commit the person or persons so refusing to the common gaol, or house of correction, there to be kept until the next assizes, or next quarter-sessions of the county, city, riding, division, shire, stewartry, or place, where such commitment shall be, and until he, she, or they shall be delivered by due course of law: And in case any such person or persons shall be convicted of any of the offences aforesaid, upon any indictment or information against him, her, or them, at such assizes or quarter-sessions of the peace as aforesaid, the person or persons so offending shall, for every such offence, forfeit the sum of two hundred pounds of lawful money of *Great Britain*, and shall also suffer imprisonment in the common gaol, prison, or house of correction, of the county, city, riding, division, liberty, shire, stewartry, or place, wherein such offender or offenders shall be respectively convicted, for the space of twelve months, without bail or mainprize, and until such forfeiture shall be paid.

on penalty of forfeiture thereof;

and if the offender shall not give a satisfactory account before the magistrate, he shall be bound to appear at the next assizes, &c.

or be committed for trial.

Penalty on conviction.

II. And be it further enacted by the authority aforesaid, That, from and after the said first day of *August* one thousand seven hundred and eighty-five, it shall and may be lawful to and for any officer of his Majesty's customs in *Great Britain*, and they are hereby required to seize, and secure in some or one of his Majesty's warehouses, all such tools, utensils, or implements, or part or parts thereof; and all and every such model or plan, models or plans, or part or parts thereof, as such officer shall find or discover to be laid or put on board, or intended to be laid or put on board, of any ship, vessel, or boat, which shall be bound to some port or place

Officers of the customs to seize all such tools, &c. laid or intended to be laid on board any outward bound vessel;

in parts beyond the seas (except to *Ireland*), contrary to the true intent and meaning of this Act, together with the packages, and all other goods packed therewith (if any such there be), and they are hereby indemnified in so doing; and all tools, utensils, and implements, or part or parts thereof, model or plan, models or plans, or part or parts thereof, together with the packages, and other goods packed therewith, so seized and secured as aforesaid, shall, after condemnation thereof in due course of law, be publickly sold to the best bidder, by order of the commissioners of the customs in *Great Britain* respectively; and one moiety of the produce arising by the sale thereof, after deducting the charges in condemnation and sale, shall be to the use of his Majesty, his heirs and successors, and the other moiety to the officer who shall seize and prosecute the same as aforesaid.

such goods to be sold.

III. And be it further enacted by the authority aforesaid, That, from and after the said first day of *August* one thousand seven hundred and eighty-five, if the captain or master of any ship, vessel, or boat, in *Great Britain*, shall knowingly or designedly permit or suffer any tool, utensil, or implement, or part or parts thereof, or any model or plan, or part or parts thereof, by this Act prohibited to be exported as aforesaid, to be put on board his said ship, vessel, or boat, every such captain or master shall, for every such offence, forfeit the sum of two hundred pounds; and if the said ship, vessel, or boat, shall belong to his Majesty, his heirs or successors, then the captain or master thereof shall not only forfeit the sum of two hundred pounds, but shall also forfeit his employment, and be incapable of holding any office or employment under his Majesty, his heirs or successors.

Penalty on masters of vessels who shall permit any such tools, &c. to be put on board.

IV. And be it further enacted by the authority aforesaid, That if any customer, comptroller, surveyor, searcher, waiter, or other officer of the customs in *Great Britain*, shall take, or knowingly or willingly suffer to be taken, any entry outward, or shall sign any cocquet, warrant, or sufferance, for the shipping or exporting of any of the said tools, utensils, or implements, or any part or parts thereof, or any of the said models or plans, or any part or parts thereof, by this Act prohibited to be exported, or shall knowingly or willingly permit, or suffer the same to be done, directly or indirectly, contrary to the true intent and meaning of this Act; every such customer, comptroller, surveyor, searcher, waiter, or other officer of the customs of *Great Britain*, shall, for every such offence, forfeit the sum of two hundred pounds, and shall also forfeit his office, and be incapable of holding any office or employment under his Majesty, his heirs or successors.

Penalty on officers of customs taking any entry outwards, &c. for such tools or utensils.

V. And be it further enacted by the authority aforesaid, That, from and after the said first day of *August* one thousand seven hundred and eighty-five, if any person or persons hath or have in his, her, or their custody, power, or possession, or shall collect, obtain, make, apply for, or cause or procure to be made, any such such tool, utensil, or implement, or any part or parts thereof, or any such model or plan, models or plans, or part or parts thereof as aforesaid, with intent to export, or that the same may be exported out of *Great Britain* to any part or place beyond the seas (except to *Ireland*), and complaint being made, upon the oath of one or more credible witness or witnesses, before any justice or justices of the peace, that there is reason to believe such person or persons hath or have in his, her, or their custody, power, or possession, or hath or have collected, obtained, made, applied for, or caused or procured to be made, any such tool, utensil, or implement, or part or parts thereof, or any such model or plan, models or plans, or part or parts thereof as aforesaid, with intent to export, or that the same may be exported to some other port or place than *Great Britain* or *Ireland*; then, and in any of the said cases, it shall and may be lawful to and for the said justice or justices of the peace to issue his or their warrant or warrants to seize all such tools, utensils, or implements, or part or parts thereof, and all such models or plans, or part or parts thereof as aforesaid, and to bring the person or persons so complained of before him or them, or some other of his Majesty's justices of the peace, for the same county, city, riding, division, shire, stewartry, or place; and if such person or persons shall not give such an account of the

Any person having in possession any such tools, utensil, &c. with intent to export the same, any justice may issue his warrant for seizing thereof, and bringing such person before him;

and if he shall

No. VII. 25 Geo. III. c. 67.

use or purpose to which such tools, utensils, or implements, or part or parts, models or plans, or part or parts thereof, is, are, or were intended to be appropriated, as shall be satisfactory to the justice or justices before whom he, she, or they shall be brought as aforesaid, then, and in such case, it shall and may be lawful to and for such justice or justices to cause all such tools, utensils, or implements, or part or parts thereof, models or plans, or part or parts thereof, which shall have been so seized as aforesaid, to be detained, and also to bind the person or persons so charged to appear at the next assizes, general gaol delivery, or quarter-sessions of the peace, for the county, city, riding, division, shire, stewartry, or place where such offence shall be committed, with reasonable sureties for his, her, or their appearance; and in case such person or persons shall refuse or neglect to give such security, then, and in such case, it shall and may be lawful to and for such justice or justices to commit such person or persons to the county gaol, prison, or house of correction, there to remain until the next assizes, or quarter-sessions of the county, city, riding, division, liberty, stewartry, or place where such commitment shall be, and until he, she, or they shall be delivered by due course of law; and in case any such person or persons shall be convicted, upon any indictment or information against him, her, or them, at such assizes or quarter-sessions of the peace as aforesaid, of having in his, her, or their custody, power, or possession, or of having collected, obtained, made, applied for, or caused or procured to be made, any such tool, utensil, or implement, or part or parts thereof, model or plan, or part or parts thereof, with such intent as aforesaid, then, and in such case, the person or persons so convicted shall, for every such offence, forfeit and lose all such tools, utensils, or implements, or part or parts thereof, models or plans, or part or parts thereof, which shall be so seized and detained, and also the sum of two hundred pounds of lawful money of *Great Britain*, and shall suffer imprisonment in the common gaol of the county, city, riding, division, shire, stewartry, or place, wherein such offence or offences respectively shall be committed, for the space of twelve months, without bail or mainprize, and until such forfeiture shall be paid.

not give a satisfactory account thereof, such tools, &c. may be detained, and the possessor bound over to appear at the next assizes, &c.

or may be committed.

Penalty in case of conviction.

VI. 'And whereas for the encouraging of such manufactories in this 'kingdom, it is necessary that provision should be made to prevent artifi-'cers, and others employed therein, from departing, or from being seduced 'to depart out of this kingdom;' Be it therefore further enacted by the authority aforesaid, That from and after the said first day of *August* one thousand seven hundred and eighty-five, if any person or persons shall contract with, entice, persuade, or endeavour to seduce or encourage any artificer or workman concerned or employed, or who shall have worked at, or been employed in, the iron or steel manufactures of this kingdom, or in making or preparing any tools or utensils for such manufactory, to go out of *Great Britain* to any parts beyond the seas (except to *Ireland*), and shall be convicted thereof, upon indictment or information in the Court of King's Bench at *Westminster*, or by indictment at the assizes, or general gaol delivery, or quarter-sessions for the county or place wherein such offence shall be committed, or the offender or offenders shall live or reside, or by indictment in the Court of Justiciary, or any of the circuit courts in *Scotland*, as the case may be; every person so convicted shall, for every artificer so contracted with, enticed, persuaded, encouraged, or seduced, or attempted so to be, forfeit and pay the sum of five hundred pounds of lawful money of *Great Britain*, and shall be committed to the common gaol for the county, place, or stewartry wherein the offender or offenders shall be convicted, there to remain without bail or mainprize for the space of twelve calendar months and until such forfeiture shall be paid; and in case of a subsequent offence of the same kind, the person or persons so again offending shall, upon the like conviction, forfeit and pay, for every person so contracted with, enticed, persuaded, encouraged, or seduced, or attempted so to be, the sum of one thousand pounds of lawful money of *Great Britain*, and shall be committed to the common gaol as aforesaid, there to remain, without bail or mainprize, for and during the term of two years, and until such forfeiture shall be paid.

Penalty on persons enticing artificers in the iron or steel manufacture, &c. to leave this kingdom, (except to Ireland):

For first offence 500*l.* and 12 months' imprisonment.

Second, &c. 1000*l.* and two years' imprisonment.

VII. Provided always, That no person shall be prosecuted for any of the offences aforesaid, unless such prosecution shall be commenced within the space of twelve calendar months next after such offence shall be committed. No. VII. 25 Geo. III. c. 67.

VIII. And it is hereby further enacted by the authority aforesaid, That the several penalties and forfeitures herein before mentioned, shall and may be sued for and recovered by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at *Westminster*, or in the Court of Exchequer, or in the Court of Session, in *Scotland*, in the name of his Majesty's attorney general, or lord advocate, or in the name of some officer or officers of the customs in *Great Britain* respectively, wherein no essoin, protection, privilege, wager of law, or more than one imparlance, shall be allowed; and that one moiety of the said penalties and forfeitures shall go and be applied to the use of his Majesty, his heirs and successors, and the other moiety to the use of such officer or officers of the customs as shall sue and prosecute for the same respectively, after deducting the charges of prosecution from the whole. Prosecution to be commenced within twelve months. Penalties and forfeitures how to be recovered and applied.

IX. And be it further enacted by the authority aforesaid, That if any suit or action shall be commenced against any person for what he shall do in pursuance of this Act, such suit or action shall be commenced within three months next after the fact committed; and the person so sued may file common bail, or enter a common appearance, and plead the general issue not guilty, and may give this Act and the special matter in evidence; and if the plaintiff or prosecutor shall become nonsuit, or suffer discontinuance, or if a verdict pass against him or her, or if, upon demurrer, judgment shall be given against the plaintiff, the defendant shall recover treble costs. Limitation of actions. General issue. Treble costs.

[No. VIII.] 26 George III. c. 89.—An Act to explain, amend, and extend to other Tools and Utensils, an Act made in the twenty-fifth Year of the Reign of his present Majesty, intituled, *An Act to prohibit the Exportation to foreign Parts of Tools and Utensils made use of in the Iron and Steel Manufactures of this Kingdom; and to prevent the seducing of Artificers or Workmen, employed in those Manufactures, to go into Parts beyond the Seas.*

No. VIII. 26 Geo. III. c. 89.

'WHEREAS by an Act, passed in the last Session of Parliament, intituled, *An Act to prohibit the Exportation to foreign Parts of Tools and Utensils made use of in the Iron and Steel Manufactures of this Kingdom; and to prevent the seducing of Artificers or Workmen employed in those Manufactures to go into Parts beyond the Seas,*' it was, amongst other things enacted, 'That if any person or persons in *Great Britain* should, upon any pretence whatever, export, load, or put on board, or pack, or cause or procure to be laden, put on board, or packed, in order to be laden or put on board of any ship or vessel which should be bound to some port or place in parts beyond the seas (except to *Ireland*); or should lade, or cause or procure to be laden, on board any boat or other vessel, or should bring, or cause to be brought, to any quay, wharf, or other place, in order to be so laden or put on board any such ship or vessel, any tool or utensil therein particularly mentioned, or any other tool or utensil whatever, which then were, or at any time or times thereafter should or might be used in, or proper for the preparing, working, finishing, or completing of the iron or steel manufactures of this kingdom, or either of them, by what name or names soever the same should be called or known; or any model or plan, or models or plans, of any such tool, utensil, or implement, or any part or parts thereof; the person or persons so offending should, for every such offence, forfeit and lose all such tools or utensils, or parts or parcels thereof, together with the packages, and all other goods packed therewith: And whereas the general prohibition of the exportation of tools and utensils made use of in the iron and steel manufactures Preamble reciting 25 G. 3. c. 67.

No. VIII. 26 Geo. III. c. 89.

'of this kingdom may be productive of inconvenience;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the tenth day of *July* one thousand seven hundred and eighty-six, it shall and may be lawful to export from *Great Britain* to the *British* islands in the *West Indies*, or to any other foreign part or place whatever, any tools or utensils made use of in the iron or steel manufactures of this kingdom, which might have been legally exported before the passing of the before recited Act (except the several articles herein after particularly enumerated; that is to say, rollers, either plain, grooved, or of any other form or denomination, of cast iron, wrought iron, or steel, for the rolling of iron, or any sort of metals, and frames, beds, pillars, screws, pinions, and each and every implement, tool, or utensil thereunto belonging; rollers, slitters, frames, beds, pillars, and screws for slitting mills; presses of all sorts in iron, steel, or other metals, which are used with a screw exceeding one inch and an half in diameter; or any parts of these several articles, or any model or models of any of the before mentioned utensils, implements and machines, or any part or parts thereof; and all sorts of utensils, engines, or machines used in the casting or boring of cannon, or any sort of artillery, or any parts thereof, or any model or models of tools, utensils, engines, or machines used in casting or boring of cannon, or any sort of artillery, or any parts thereof; hand-stamps, dog-head stamps, pulley stamps, hammers and anvils for stamps, presses of all sorts called *cutting-out presses*, beds and punches to be used therewith, piercing presses of all sorts, beds and punches to be used therewith, either in parts or pieces, or fitted together; scoring or shading engines, presses for horn buttons, dies for horn buttons, rolled metal with silver thereon, parts of buttons not fitted up into buttons, or in an unfinished state; engines for chasing, stocks for casting buckles, buttons and rings; die-sinking tools of all sorts, engines for making button-shanks, laps of all sorts, tools for pinching of glass, engines for covering of whips, bars of metal covered with gold or silver, burnishing stones, commonly called *blood stones*, either in the rough state or finished for use;) any thing in the said recited Act to the contrary in any wise notwithstanding.

From July 10, 1786, such tools used in the iron and steel manufactures, &c. may be exported as might have been before passing recited Act, except the articles herein specified.

II. And be it further enacted by the authority aforesaid, That from and after the tenth day of *July*, one thousand seven hundred and eighty-six, it shall not be lawful for any person or persons, in the kingdom of *Great Britain*, to export to parts beyond the seas (except to *Ireland*), or to have in his or their possession, with the intent so to export, any of the tools and utensils hereinafter mentioned; that is to say, wire moulds for making paper; wheels made of metal, stone, or wood, for cutting, roughing, smoothing, polishing, and engraving glass; purcellas, pincers, sheers and pipes, used in blowing glass; potters wheels and potters lathes for plain, round, and for engine-turning tools, used by saddlers, harness-makers, and bridle-makers, namely, cantle-strainers, side-strainers, point-strainers, creasing-irons, screw-creasers, wheel-irons, seat-irons, pricking-irons, bolstering-irons, clams, head-knives; and that the said recited Act, so far as the same concerns the exporters or possessors of the tools and utensils therein enumerated or described, shall extend, or be construed to extend, to all and every the exporters or possessors of the tools and utensils herein enumerated or described, as fully, to all intents and purposes, as if the same were repeated and re-enacted in the body of this Act.

No person to have in possession, with intent to export (except to Ireland), any of the articles herein specified.

Recited Act so far as relates to exporters of articles therein enumerated, to extend to exporters of articles specified in this Act.

III. And be it further enacted, That this Act shall continue in force until the end of the next session of Parliament, and no longer. [Made perpetual, after intermediate continuances, by 35 Geo. III. c. 38.]

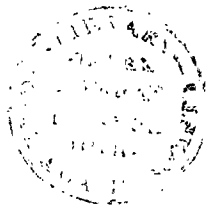
Continuance of this Act.

No. IX.
5 Geo. IV.
c. 97.

[No. IX.] 5 George IV. c. 97.—An Act to repeal the Laws relative to Artificers going into Foreign Parts.—[21st *June* 1824.]

WHEREAS it is expedient that the several laws relative to artificers going into foreign parts should be repealed: be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, a certain Act passed in the fifth year of King *George* the First, intituled "An Act to prevent the Inconve- "niencies arising from seducing Artificers in the Manufactures of *Great* "*Britain* into Foreign Parts;" also so much of a certain other Act, passed in the twenty-third year of King *George* the Second, intituled "An "Act for the effectual punishing of Persons convicted of seducing Arti- "ficers in the Manufactures of *Great Britain* or *Ireland* out of the Domi- "nions of the Crown of *Great Britain*; and to prevent the Exportation "of Utensils made use of in the Woollen and Silk Manufactures from "*Great Britain* or *Ireland* into Foreign Parts; and for the more easy and "speedy Determination of Appeals allowed in certain Cases by an Act "made in the last Session of Parliament, relating to Persons employed "in the several Manufactures therein mentioned;" as relates to contracting with, enticing, persuading, or endeavouring to persuade, solicit, or seduce manufacturers workmen and artificers, as therein mentioned; also so much of a certain other Act passed in the twenty-second year of King *George* the Third, intituled "An Act to prevent the seducing of "Artificers or Workmen employed in printing Callicoes, Cottons, Mus- "lins, and Linens, or in making or preparing Blocks, Plates, or other "Implements used in that Manufactory, to go to Parts beyond the Seas; "and to prohibit the Exportation to Foreign Parts any such Blocks, "Plates, or other Implements," as relates to contracting with, enticing, persuading, or endeavouring to seduce or encourage artificers and workmen as therein mentioned; also so much of a certain other Act, passed in the Parliament of *Ireland* in the twenty-fifth year of King *George* the Third, intituled "An Act to prevent the Practice of seducing Artificers "and Manufacturers of this Kingdom, and of exporting the several Tools "and Utensils made use of in preparing and working up the Manufactures "thereof, into Parts beyond the Seas," as relates to contracting with, enticing, persuading, or endeavouring to persuade, soliciting, or seducing manufacturers workmen or artificers, as therein mentioned; and also so much of a certain other Act, passed in the twenty-fifth year of King *George* the Third, intituled "An Act to prohibit the Exportation to "Foreign Parts of Tools and Utensils made use of in the Iron and Steel "Manufactures of this Kingdom; and to prevent the seducing of Arti- "ficers or Workmen employed in those Manufactures to go into Parts "beyond the Seas," as relates to contracting with, enticing, persuading, or endeavouring to seduce or encourage artificers or workmen as therein mentioned; also so much of a certain other Act, passed in the thirty-ninth year of King *George* the Third, intituled "An Act to explain and "amend the Laws relative to Colliers in that part of *Great Britain* called "*Scotland*;" as punishes the seducing or attempting to seduce colliers or others, as therein mentioned; together with every other law statute or enactment relative to the same subjects or any of them, and whether in force throughout or in any of the United Kingdom of *Great Britain* and *Ireland*, shall be and the same are hereby repealed, save and except in as far as the same may have repealed any prior Act or enactment.

The following Acts and Parts of Acts relative to Artificers going out of the Kingdom repealed, viz.
5 G. 1. c. 27. in part;
23 G. 2. c. 13. in part;
22 G. 3. c. 60. in part;
25 G. 3. (I.); in part;
and
25 G. 3. c. 67. in part;
also so much of 39 G. 3. c. 56. as relates to the seducing of Colliers, &c.;
and other Acts relative to the same Subjects, repealed.



PART V.—CLASS XX.

OFFENCES RESPECTING ELECTIONS OF MEMBERS OF PARLIAMENT.

[No. I.] 5 William and Mary, c. 20.—An Act for granting to their Majesties several Rates and Duties upon Tonnage of Ships and Vessels, and upon Beer, Ale, and other Liquors, for securing certain Recompences and Advantages in the said Act mentioned, to such Persons as shall voluntarily advance the Sum of fifteen hundred thousand Pounds towards the carrying on the War against *France*.

No I. 5 William and Mary, c. 20.

XLVIII. AND to the end the great duties of excise, and the powers given for the collecting and levying the same, may not be employed for the influencing of elections of members to serve in Parliament, which elections, by the constitution of this government, ought to be free and uncorrupt; be it enacted by the authority aforesaid, That from and after the first day of *May*, in the year of our Lord one thousand six hundred ninety-four, no collector, supervisor, guager, or other officer or person whatsoever, concerned or employed in the charging, collecting, levying, or managing the duties of excise, or any branch or part thereof, shall by word, message, or writing, or in any other manner whatsoever, endeavour to persuade any elector to give, or dissuade any elector from giving his vote for the choice of any person to be a knight of the shire, citizen, burgess, or baron of any county, city, borough, or cinque port to serve in Parliament; and every officer or other person offending therein, shall forfeit the sum of one hundred pounds, one moiety thereof to the informer, the other moiety to the poor of the parish where such offence shall be committed, to be recovered by any person that shall sue for the same, by action of debt, bill, plaint, or information, in any of their Majesties' Courts of Record at *Westminster*, in which no essoin, protection, privilege or wager of law, or more than one imparlance, shall be allowed; and every person convict on any such suit of the said offence, shall thereby become disabled and incapable of ever bearing or executing any office or place concerning or relating to the duty of excise, or any other office or place of trust whatsoever under their Majesties, their heirs or successors.

Officers in the excise not to persuade in choice of members.

Penalty.

[No. II.] 7 and 8 William III. c. 4.—An Act for preventing Charge and Expence in Elections of Members to serve in Parliament.

No. II. 7 and 8 William III. c. 4.

'WHEREAS grievous complaints are made, and manifestly appear to be true, in the kingdom, of undue elections of members of Parliament, 'by excessive and exorbitant expences; contrary to the laws, and in violation of the freedom due to the election of representatives for the Commons of *England* in Parliament, to the great scandal of the kingdom, 'dishonourable, and may be destructive to the constitution of Parliaments:' Wherefore, for remedy therein, and that all elections of members to Parliament may be hereafter freely and indifferently made, without charge or expence; Be it enacted and declared by our Sovereign Lord the

No. II. 7 and 8 William III. c. 4.

King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That no person or persons hereafter to be elected to serve in Parliament for any county, city, town, borough, port, or place within the kingdom of *England*, dominion of *Wales*, or town of *Berwick upon Tweed*, after the teste of the writ of summons to Parliament, or after the teste or the issuing out or ordering of the writ or writs of election upon the calling or summoning of any Parliament hereafter, or after any such place becomes vacant hereafter in the time of this present or of any other Parliament, shall or do hereafter, by himself or themselves, or by any other ways or means on his or their behalf, or at his or their charge, before his or their election to serve in Parliament for any county, city, town, borough, port, or place within the kingdom of *England*, dominion of *Wales*, or town of *Berwick upon Tweed*, directly or indirectly give, present, or allow to any person or persons, having voice or vote in such election, any money, meat, drink, entertainment, or provision(1), or make any present, gift, reward, or entertainment, or shall, at any time hereafter, make any promise, agreement, obligation, or engagement, to give or allow any money, meat, drink, provision, present, reward, or entertainment, to or for any such person or persons in particular, or to any such county, city, town, borough, port, or place in general, or to or for the use, advantage, benefit, employment, profit, or preferment of any such person or persons, place or places, in order to be elected, or for being elected, to serve in Parliament for such county, city, borough, town, port or place.

Candidates after the teste of the writ, &c. giving or promising any present or reward to any person having vote, for being so elected;

incapable to serve in Parliament.

II. And it is hereby further enacted and declared, That every person and persons so giving, presenting or allowing, making, promising or engaging, doing, acting or proceeding, shall be and are hereby declared and enacted, disabled and incapacitated, upon such election, to serve in Parliament for such county, city, town, borough, port or place; and that such person or persons shall be deemed and taken, and are hereby declared and enacted to be deemed and taken, no members in Parliament, and shall not act, sit, or have any vote, or place in Parliament, but shall be and are hereby declared and enacted to be to all intents, constructions and purposes, as if they had been never returned or elected members for the Parliament. [See 2 Geo. II. cap. 24, *which provides that Persons taking Money, &c. shall forfeit* 500l. *and be disabled to vote, &c. and which Act is extended to Election of Delegates in* Scotland *by* 16 Geo. II. c. 11.]

(1) It being contrary to stat. 7 and 8 W. III. for a candidate to furnish provisions to any voters after the teste of the writ, an innkeeper cannot recover against a candidate for provisions so furnished at his request. Ribbans *v.* Crickett, 1 B. and A. 264.

P.

[No. III.] 12 and 13 William III. c. 10.—An Act for granting an Aid to his Majesty for defraying the Expence of his Navy, Guards, and Garrisons for one Year, and for other necessary Occasions.

No. III. 12 and 13 William III. c. 10.

XCI. AND be it further enacted by the authority aforesaid, That from and after the nine and twentieth day of *September*, one thousand seven hundred and one, no commissioner, collector, comptroller, searcher, or other officer or person whatsoever, concerned or employed in the charging, collecting, levying or managing the customs, or any branch or part thereof, shall by word, message or writing, or in any other manner whatsoever, endeavour to perswade any elector to give, or diswade any elector from giving his vote for the choice of any person to be a knight of the shire, citizen, burgess, or baron, of any county, city, borough, or cinque port to serve in Parliament; and every officer, or other person offending therein shall forfeit the sum of one hundred pounds; one moiety thereof to the informer, the other moiety to the poor of the parish where such offence shall be committed, to be recovered by any person that shall sue for the same, by action of debt, bill, plaint, or information, in any of his Ma-

No officer of the customs to influence any election of members.

jesty's Courts of Record at *Westminster*, in which no essoin, protection, or wager of law, or more than one imparlance shall be allowed; and every person convict on any such suit, of the said offence, shall thereby become disabled and incapable of ever bearing or executing any office or place concerning or relating to the customs, or any other office or place of trust whatsoever under his Majesty, his heirs or successors.

No. III. 12 and 13 William III. c. 10.

Penalty.

[No. IV.] 10 Anne, c. 19.—An Act for laying several Duties upon all Sope and Paper made in *Great Britain*, or imported into the same; and upon chequered and striped Linens imported, and upon certain Silks, Callicoes, Linens, and Stuffs, printed, painted, or stained; and upon several Kinds of stampt Vellum, Parchment, and Paper, and upon certain printed Papers, Pamphlets, and Advertisements; for raising the Sum of eighteen hundred thousand Pounds by Way of Lottery towards her Majesty's Supply; and for licensing an additional Number of Hackney Chairs; and for charging certain Stocks of Cards and Dice; and for better securing her Majesties Duties to arise in the Office for the Stampt Duties by Licences for Marriages and otherwise; and for Relief of Persons who have not claimed their Lottery Tickets in due Time, or have lost Exchequer Bills, or Lottery Tickets; and for borrowing Money upon Stock (Part of the Capital of the *South Sea* Company) for the Use of the Publick.

No. IV. 10 Anne, c. 19.

CLXXXII. AND be it further enacted by the authority aforesaid, That no commissioner, officer, or other person concerned or employed in the charging, collecting, receiving, or managing any of the duties granted by this Act, shall, by word, message, or writing, or in any other manner, endeavour to persuade any elector to give, or dissuade any elector from giving his vote for his choice of any person to be knight of the shire, commissioner, citizen, burgess, or baron for any county, city, borough, or cinque port; and every officer or other person offending therein, shall forfeit the sum of one hundred pounds; one moiety thereof to the informer, the other moiety thereof to the use of the poor of the parish or place where such offence shall be committed; to be recovered by any person that shall sue for the same, by action of debt, bill, plaint, or information, in any of her Majesty's Courts of Record at *Westminster*, or in the Court of Exchequer in that part of *Great Britain* called *Scotland*, in which no essoin, protection, privilege, or wager of law, or more than one imparlance, shall be allowed; and every person convict on any such suit shall thereby become disabled, and incapable of ever bearing or executing any office or place of trust whatsoever, under her Majesty, her heirs and successors.

The commissioners and officers appointed by this Act, not to intermeddle with elections.

[No. V.] 2 George II. c. 24.—An Act for the more effectual preventing Bribery and Corruption in the Elections of Members to serve in Parliament.

No. V. 2 Geo. II. c. 24.

'WHEREAS it is found by experience, that the laws already in being have not been sufficient to prevent corrupt and illegal practices in 'the election of members to serve in Parliament;' For remedy therefore of so great an evil, and to the end that all elections of members to Parliament may hereafter be freely and indifferently made, without charge or expence, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of *June* in the year of our Lord one

'Extended to elections of delegates in Scotland by 16

No. V. 2 Geo. II. c. 24.

thousand seven hundred and twenty-nine, upon every election of any member or members to serve for the Commons in Parliament, every freeholder, citizen, freeman, burgess or person having or claiming to have a right to vote or be polled at such election, shall before he is admitted to poll at the same election, take the following oath (or, being one of the people called *Quakers*, shall make the solemn affirmation appointed for *Quakers*) in case the same shall be demanded by either of the candidates, or of any two of the electors; that is to say,

Geo. 2. c. 11. Electors of Parliament men to take the following oath, if demanded.

Elector's oath.

'I *A. B.* do swear, (*or, being one of the people called* Quakers I *A. B.* do solemnly affirm) I have not received, or had by myself, or any person whatsoever in trust for me, or for my use and benefit, directly or indirectly, any sum or sums of money, office, place or employment, gift or reward, or any promise or security for any money, office, employment or gift, in order to give my vote at this election, and that I have not been before polled at this election.'

Presiding officer to administer it on forfeiture of 50l.

Which oath or affirmation the officer or officers presiding or taking the poll at such election, is and are hereby impowered and required to administer *gratis*, if demanded, as aforesaid, upon pain to forfeit the sum of fifty pounds of lawful money of *Great Britain*, to any person that shall sue for the same, to be recovered, together with full costs of suit, by action of debt, bill, plaint or information, in any of his Majesty's Courts of Record at *Westminster*, wherein no essoign, protection, wager of law, or more than one imparlance, shall be admitted or allowed; and if the said offence shall be committed in that part of *Great Britain* called *Scotland*, then to be recovered, together with full costs of suit, by summary action or complaint before the Court of Session, or by prosecution before the Court of Justiciary there, for every neglect or refusal so to do; and no person shall be admitted to poll, till he has taken and repeated the said oath in publick manner, in case the same shall be demanded as aforesaid, before the returning officer or such others as shall be legally deputed by him.

Sheriff or other returning officer admitting any to be polled, before sworn, to forfeit 100l.

II. And be it further enacted, That if any sheriff, mayor, bailiff or other returning officer shall admit any person to be polled without taking such oath or affirmation, if demanded as aforesaid, such returning officer shall forfeit the sum of one hundred pounds, to be recovered in manner aforesaid, together with full costs of suit; and that if any person shall vote or poll at such election without having first taken the oath, or if a *Quaker*, having made his affirmation as aforesaid, if demanded, such person shall incur the same penalty, which the officer is subject to for the offence above mentioned.

Voters to incur the like penalty.

Returning officer after reading the writ, to take the following oath.

III. And be it further enacted by the authority aforesaid, That every sheriff, mayor, bailiff, headborough or other person, being the returning officer of any member to serve in Parliament, shall, immediately after the reading the writ or precept for the election of such member, take and subscribe the following oath, *videlicet*,

'I *A. B.* do solemnly swear, That I have not, directly or indirectly, received any sum or sums of money, office, place or employment, gratuity or reward, or any bond, bill or note, or any promise or gratuity whatsoever, either by my self, or any other person to my use, or benefit or advantage, for making any return at the present election of members to serve in Parliament; and that I will return such person or persons as shall, to the best of my judgment, appear to me to have the majority of legal votes.'

Which oath any justice or justices of the peace of the said county, city, corporation or borough where such election shall be made, or, in his or their absence, any three of the electors are hereby required and authorized to administer; and such oath, so taken, shall be entered among the records of the sessions of such county, city, corporation or borough as aforesaid.

What votes shall be deemed legal.

IV. And be it enacted by the authority aforesaid, That such votes shall be deemed to be legal, which have been so declared by the last determination in the House of Commons; which last determination concerning any county, shire, city, borough, cinque port or place, shall be final to all intents and purposes whatsoever, any usage to the contrary notwithstanding.

V. And be it further enacted by the authority aforesaid, That if any returning officer, elector or person taking the oath or affirmation herein before mentioned, shall be guilty of wilful and corrupt perjury, or of false affirming, and be thereof convicted by due course of law, shall incur and suffer the pains and penalties, which by law are enacted or inflicted in cases of wilful and corrupt perjury.

Penalty of wilful perjury.

VI. And be it further enacted by the authority aforesaid, That no person convicted of wilful and corrupt perjury, or subornation of perjury, shall, after such conviction, be capable of voting in any election of any member or members to serve in Parliament.

Persons convicted never capable to vote.

VII. And be it further enacted by the authority aforesaid, That if any person who hath, or claimeth to have, or hereafter shall have, or claim to have any right to vote in any such election, shall, from and after the said twenty-fourth day of *June* which shall be in the year of our Lord one thousand seven hundred and twenty-nine, ask, receive or take any money or other reward (1) by way of gift, loan or other device, or agree or contract for any money, gift, office, employment or other reward whatsoever, to give his vote (2), or to refuse or forbear to give his vote in any such election, or if any person by himself, or any person employed by him, doth or shall, by any gift or reward, or by any promise, agreement, or security for any gift or reward, corrupt or procure any person or persons to give his or their vote or votes, or to forbear to give his or their vote or votes in any such election, such person so offending in any of the cases aforesaid, shall for every such offence forfeit the sum of five hundred pounds of lawful money of *Great Britain*, to be recovered as before directed, together with full costs of suit; and every person offending in any of the cases aforesaid, from and after judgment obtained against him in any such action of debt, bill, plaint or information, or summary action or prosecution, or being any otherwise lawfully convicted thereof, shall for ever be disabled to vote in any election of any member or members to Parliament, and also shall for ever be disabled to hold, exercise or enjoy any office or franchise to which he and they then shall or at any time afterwards may be intitled, as a member of any city, borough, town corporate, or cinque port, as if such person was naturally dead (3).

Persons taking money or reward for their vote, &c. forfeit 500*l.* and disabled to vote, &c.

VIII. And be it further enacted by the authority aforesaid, That if any person offending against this act shall, within the space of twelve months next after such election as aforesaid, discover any other person or persons offending against this act, so that such person or persons so discovered be thereupon convicted, such person so discovering, and not having been before that time convicted of any offence against this act, shall be indemnified, and discharged from all penalties and disabilities which he shall then have incurred by any offence against this act (4).

Offenders discovering others, indemnified.

IX. And for the more effectual observance of this act, be it enacted, That all and every the sheriffs, mayors, bailiffs, and other officers, to whom the execution of any writ or precept for electing any member or members to serve in Parliament shall belong or appertain, shall and are hereby re-

The Act to be read by the Sheriff, &c. after reading the writ,

(1) The declaration must specify what in particular was received; *a gift or reward* is not sufficient; Davy *v.* Baker, 4 Bur. 2471.

(2) A person who has given another money for his vote, shall not be admitted to say that such other had no right to vote. The declaration was for endeavouring to bribe for A and B; the proof was of offering a bribe to vote for A and his friend, and ruled sufficient; Combe *v.* Pitt, 3 Bur. 1587. The penalty is incurred although the party votes against the candidate for whom the bribe is given; Salston *v.* Norton, 3 Bur. 1235. The bribe may be charged as a gift, notwithstanding there being a note and counter-note, which is mere evasion, colour, disguise, and device; S. C.

(3) Bribery in parliamentary elections was an offence at common law, and the penalty imposed by this statute is cumulative to the common law punishment. The Court, in awarding punishment, will take into consideration the liability under the statute, and will not, in general, grant an information until the time of commencing an action on the statute has expired; Rex. *v.* Pitt and Mead, 3 Bur. 1335; 1 Bl. Rep. 380. In Rex *v.* Heyden, 3 Bur. 1359, the Court adjourned passing sentence on an information until the time for suing on the statute had expired: and see S. C. 3 Bur. 1387.

(4) See Sibley *v.* Cuming, 4 Bur. 2465; Curgenven *v.* Cuming, 4 Bur. 2504; Pugh *v.* Curgenven, 3 Wils. 35; and the "Cricklade Case," 8vo. 1785.

No. V. 2 Geo. II. c. 24.

quired, at the time of such election, immediately after the reading such writ or precept, read or cause to be read openly before the electors there assembled, this present act, and every clause therein contained; and the same shall also openly be read once in every year at the general quarter-sessions of the peace to be holden next after *Easter*, for any county or city, and at every election of the chief magistrate of any borough, town corporate or cinque port, and at the annual election of magistrates and town counsellors for every borough within that part of *Great Britain*, called *Scotland*.

and at the Quarter Sessions after Easter.

Wilful offence forfeits 50*l*.

X. And be it further enacted by the authority aforesaid, That every sheriff, under-sheriff, mayor, bailiff and other officer, to whom the execution of any writ or precept for the electing of members to serve in Parliament doth belong, for every wilful offence, contrary to this Act, shall forfeit the sum of fifty pounds, to be recovered, together with full costs of suit, in the manner before directed.

Prosecution to commence within two years.

XI. Provided always, and it is hereby declared and enacted by the authority aforesaid, That no person shall be made liable to any incapacity, disability, forfeiture or penalty by this Act laid or imposed, unless prosecution be commenced within two years after such incapacity, disability, forfeiture or penalty shall be incurred, or in case of a prosecution the same be carried on without wilful delay (5) any thing herein contained to the contrary notwithstanding.

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(5) If such delay is going to trial be made by the prosecutor, the Court, after verdict in his favour, will stay the proceedings upon motion, and he will not be allowed his costs. The defendant shall have the benefit of the act, though he do not claim it as soon as he might, for his application is not to the favour, but to the justice of the Court. If the plaintiff do not proceed to trial till six days after issue joined, and assign no reason for it, the Court will consider the delay to be wilful. Petrie *v.* White, 3 T. R. 5.

[No. VI.] 18 George II. c. 18.—An Act to explain and amend the Laws touching the Elections of Knights of the Shire to serve in Parliament for that Part of *Great Britain* called *England*.

No. VI. 18 Geo. II. c. 18.

V. AND be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* one thousand seven hundred and forty-five, no person shall vote in any such election, without having a freehold estate in the county for which he votes, of the clear yearly value of forty shillings, over and above all rents and charges payable out of or in respect of the same, or without having been in the actual possession, or in receipt of the rents and profits thereof, for his own use, above twelve kalendar months, unless the same came to him within the time aforesaid, by descent, marriage, marriage settlement, devise, or promotion to any benefice in a church, or by promotion to an office, or shall vote in respect or in right of any freehold estate, which was made or granted to him fraudulently, or on purpose to qualify him to give his vote, or shall vote more than once at the same election: And if any person shall vote in any such election, contrary to the true intent and meaning hereof, he shall forfeit to any candidate for whom such vote shall not have been given, and who shall first sue for the same, the sum of forty pounds, to be recovered by him or them, his or their executors or administrators, together with full costs of suit, by action of debt, in any of his Majesty's Courts of Record at *Westminster*, wherein no essoin, protection, wager of law, privilege or imparlance shall be admitted or allowed; and in every such action, the proof shall lie on such person against whom the same was brought, unless the fact on which such action is grounded, be the having polled more than once at the same election.

Further qualifications of electors.

Penalty of 40*l*.

The manner of proceeding in case of offence against this Act.

XIII. And be it further enacted by the authority aforesaid, That it shall and may be sufficient for the plaintiff, in any action of debt given by this Act, to set forth in the declaration or bill, that the defendant is indebted to him, in the sum of and to alledge the particular

No. VI. 18 Geo. II. c. 18.

offence for which the action or suit is brought; and that the defendant hath acted contrary to this Act, without mentioning the writ of summons to Parliament, or the return thereof; and it shall be sufficient in any indictment or information, for any offence committed contrary to this Act, to alledge the particular offence charged upon the defendant; and that the defendant is guilty thereof, without mentioning the writ of summons to Parliament, or the return thereof; and upon trial of any issue in any such action, suit, indictment or information, the plaintiff, prosecutor or informer, shall not be obliged to prove the writ of summons to parliament, or the return thereof, or any warrant or authority to the sheriff, grounded upon any such writ of summons.

Limitation of actions.

XIV. Provided always, That every action, suit, indictment or information given by this Act, shall be commenced within the space of nine kalendar months after the fact, upon which the same is grounded, shall have been committed.

Statutes of Jeofails, &c. extended to Proceedings on this Act.

XV. And be it further enacted by the authority aforesaid, That all the statutes of Jeofails and amendments of the Law whatsoever, shall and may be construed to extend to all proceedings in any action, suit, indictment or information, given or allowed by this Act, or which shall be brought in pursuance thereof.

Treble costs.

XVI. Provided always, and be it further enacted by the authority aforesaid, That in case the plaintiff or informer, in any action, suit, indictment or information, given by this act, shall discontinue the same, or be nonsuited, or judgment be otherwise given against him; then and in any of the said cases, the defendant against whom such action, suit, or information shall have been brought, shall recover his treble costs.

[No. VII.] 19 George II. c. 28.—An Act for the better regulating of Elections of Members to serve in Parliament, for such Cities and Towns in that Part of *Great Britain* called *England*, as are Counties of themselves.

No. VII. 19 Geo. II. c. 28.

Persons voting, to have a freehold estate of forty shillings, &c.

and to be in possession above twelve months.

Exception.

Penalty of fraudulent qualification, &c.

IV. AND be it further enacted by the authority aforesaid, That from and after the said twenty-fourth day of *June* one thousand seven hundred and forty-six, no person shall vote in such election of a member or members to serve in Parliament for any city or town, being a county of itself, and in which persons have a right to vote for such members, for and in respect of lands, tenements or hereditaments, of the yearly value of forty shillings, unless such persons shall have a freehold estate in the city and county, or town and county for which he votes, of the clear yearly value of forty shillings, over and above all rents and charges payable out of or in respect of the same, and shall have been in the actual possession, or in receipt of the rents and profits thereof for his own use, above twelve calendar months, except the same came to him within the time aforesaid by descent, marriage, marriage settlement, devise or promotion to any benefice in a church, or by promotion to an office; and no person shall vote in respect or in right of any freehold estate which was made or granted to him fraudulently, on purpose to qualify him to give his vote, or shall vote more than once at the same election; and if any person shall vote in any such election contrary to the true intent and meaning hereof, he shall forfeit to any candidate for whom such vote shall not have been given, and who shall first sue for the same, the sum of forty pounds, to be recovered by him or them, his or their executors or administrators, together with full costs of suit, by action of debt, in any of his Majesty's Courts of record at *Westminster*, wherein no essoin, protection, wager of law, privilege or imparlance shall be admitted or allowed; and in every such action the proof shall lie on such person against whom the same was brought, unless the fact on which such action is grounded be, the having polled more than once at the same election.

The proof where to lie, &c.

Taxes not within this Act.

V. And be it declared by the authority aforesaid, That no publick or parliamentary tax, church or parish rate or duty, or any other tax, rate or assessment whatsoever, to be assessed or levied within such cities or towns,

No. VII. 19 Geo. II. c. 28.

being counties of themselves as aforesaid, is or shall be deemed or construed to be any charge payable out of or in respect of any freehold estate within the meaning and intention of this Act, or of the oath or solemn affirmation herein before directed to be administered to and taken by every freeholder, if required, as aforesaid.

Plaintiffs how to proceed.

IX. And be it further enacted by the authority aforesaid, That it shall and may be sufficient for the plaintiff in any action of debt given by this Act, to set forth in the declaration or bill, that the defendant is indebted to him in the sum of and to alledge the particular offence for which the action or suit is brought, and that the defendant hath acted contrary to this Act, without mentioning the writ of summons to Parliament, or the return thereof; and it shall be sufficient in any indictment or information for any offence committed contrary to this Act, to alledge the particular offence charged upon the defendant, and that the defendant is guilty thereof, without mentioning the writ of summons to Parliament, or the return thereof; and upon trial of any issue in any such action, suit, indictment or information, the plaintiff, prosecutor or informer shall not be obliged to prove the writ of summons to Parliament, or the return thereof, or any warrant or authority to the sheriff or sheriffs, grounded upon any such writ of summons.

Suits to be commenced within nine months.

X. Provided always, That every action, suit, indictment or information given by this Act, shall be commenced within the space of nine calendar months after the fact upon which the same is grounded shall have been committed.

Statutes of jeofails extended to such proceedings.

XI. And be it further enacted by the authority aforesaid, That all the statutes of jeofails, and amendments of the law whatsoever, shall and may be construed to extend to all proceedings in any action, suit, indictment or information given or allowed by this Act, or which shall be brought in pursuance thereof.

Plaintiff discontinuing, &c. shall pay treble costs.

XII. Provided always, and be it further enacted by the authority aforesaid, That in case the plaintiff or informer, in any action, suit, indictment or information given by this Act, shall discontinue the same, or be nonsuited, or judgment be otherwise given against him; then and in any of the said cases, the defendant against whom such action, suit or information shall have been brought, shall recover his treble costs.

Limitation of this Act.

XIII. Provided always, and be it enacted by the authority aforesaid, That this Act, or any thing therein contained (other than and except such clauses and Provisions as are by this Act made for or concerning allowing cheque books, or for or concerning notice to be given of the time and place of election, and proceeding to election thereupon) shall not extend, or be construed to extend, to any city or town, being a county of itself, or to any person or persons, where the right of voting for any member or members of any such city or town is for or in respect of burgage tenure, or where the right of voting for such member or members, for or in respect of a freehold, does not require the same to be of the yearly value of forty shillings.

No. VIII. 3 Geo. III. c. 15.

[No. VIII.] 3 George III. c. 15.—An Act to prevent Occasional Freemen from Voting at Elections of Members to serve in Parliament for Cities and Boroughs. *

Preamble.

'WHEREAS great abuses have been committed in making freemen of 'corporations, in order to influence elections of members to serve in 'Parliament, to the great infringement of the rights of freemen of such cor-'porations, and of the freedom of elections:' To prevent such practices for the future, Be it enacted by the King's most excellent majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, and by the authority of the same, That from and after the first day of *May* one thousand seven hundred and sixty three, no person whatsoever claiming as a freeman (1) to vote at any

None to vote as

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* Usually called the Durham Act.

(1) A person voting as a *burgess* is within the Act; Williams v. Evans, 8 T. R. 246.

election of members to serve in Parliament for any city, town, port or borough in *England, Wales*, and the town of *Berwick-upon-Tweed*, where such voter's right of voting is as a freeman only (1), shall be admitted to give his vote at such election, unless such person shall have been admitted to the freedom of such city, town, port or borough, twelve calendar months before the first day of such election: And if any person shall presume to give his vote as a freeman at any election of members to serve in Parliament, contrary to the true intent and meaning of this Act, he shall for every such offence forfeit and pay the sum of one hundred pounds to him her or them who shall inform and sue for the same; and the vote given by such person shall be void and of no effect.

freemen, at election of members, but such as have been admitted to their freedom 12 months before such election, on penalty of 100*l.*

II. Provided always, That nothing herein contained shall extend, or be construed to extend to any person intitled to his freedom by birth, marriage or servitude, according to the custom or usage of such city, town, port or borough.

Persons intitled to their freedom by birth, marriage, or servitude, excepted.

III. And be it further enacted by the authority aforesaid, That if any mayor, bailiff, sheriff, town clerk, or other officer of any corporation, or other person whatsoever, shall wilfully and fraudulently antedate, or cause to be antedated, any admission of any freeman, such mayor, bailiff, sheriff, town clerk, officer, or other person, shall for every such offence, forfeit and pay the sum of five hundred pounds to him her or them who shall inform and sue for the same.

Penalty of antedating the admission of any freeman 500*l.*

IV. And be it further enacted by the authority aforesaid, That the mayor, bailiff, sheriff, town clerk, or other officer of any corporation, having the custody of, or power over the records of the same, shall upon the demand of any candidate, or his agent, or any two freemen, on the payment of one shilling, permit such candidate, agent, or freemen, between the hours of nine in the morning and three in the afternoon, at any time before, and within one month after any such election as aforesaid, to inspect the books and papers wherein the admission of freemen shall be entered; and to have copies or minutes of the admission of so many freemen as such candidate, agent, or freemen shall think fit, upon paying to such mayor, bailiff, sheriff, town clerk, or other officer, a reasonable charge for writing the same; and such books and papers shall, if demanded by such candidate, agent or freemen, be produced by such mayor, bailiff, sheriff, town clerk, or other officer, at every election, and be referred to, in case any dispute shall arise touching the right of any person to give his vote thereat: And if such mayor, bailiff, sheriff, town clerk, or other officer, shall refuse or deny such candidate, agent or freemen the inspection of such books and papers, or to have copies or minutes thereof, or shall refuse or neglect to produce such books and papers at any election, if demanded and paid for in the manner herein before set forth, such mayor, bailiff, sheriff, town clerk, or other officer, shall for every such offence forfeit and pay the sum of one hundred pounds to him her or them who shall inform and sue for the same.

The books and papers of admission of freemen to be open to inspection upon demand of a candidate, his agent, or two freemen, upon payment of 1*s.* and copies and minutes of the admissions to be given, paying reasonably for writing the same; and the books, &c. to be produced, if demanded, at every election, on penalty of 100*l.*

V. And be it further enacted by the authority aforesaid, That all forfeitures or penalties laid or imposed by this Act shall be recovered, with full costs of suit, by action of debt, bill, plaint, or information, in any of his Majesty's courts of record at *Westminster*; wherein no essoin, protection, wager of law, or more than one imparlance shall be allowed.

The penalties may be recovered, with full costs of suit;

VI. Provided always, and it is hereby further enacted and declared by the authority aforesaid, That no person shall be liable to any forfeiture or penalty by this Act laid or imposed, unless prosecution be commenced within one year after such forfeiture or penalty shall be incurred,

provided the prosecution be commenced within a year.

VII. And be it further enacted by the authority aforesaid, That the returning officer shall read or cause to be read openly this Act, at the time of election of members to serve in parliament for cities, towns, ports, or boroughs where the right of election is in the whole, or in part, in freemen

This Act to be openly read by the returning officer, at all elections by freemen immediately after Act 2 Geo. 2. c. 24.

(1) In an action on this statute it must be averred, that the defendant had no other right than as a freeman: an allegation that he *claimed* no other right is not sufficient; Daman v. Marrett, 1 Taunt. 128.

No. VIII. 3 Geo. III. c. 15.

as aforesaid, immediately after the reading of the Act passed in the second year of his late Majesty's reign, intituled, *An Act for the more effectual preventing Bribery and Corruption in the Election of Members to serve in Parliament.*

This Act not to extend to London or Norwich.

VIII. And be it further enacted by the authority aforesaid, That nothing in this Act shall extend or be construed to extend to the cities of *London* or *Norwich.*

[No. IX.] 22 George III. c. 41.—An Act for better securing the Freedom of Elections of Members to serve in Parliament, by disabling certain Officers, employed in the Collection or Management of his Majesty's Revenues, from giving their Votes at such Elections.

No. IX. 22 Geo. III. c. 41.

Preamble.

From Aug. 1, 1782, no commissioner or officer employed in collecting or managing the duties of excise, customs, &c. shall have any vote in the election of members of Parliament.

FOR the better securing the freedom of elections of members to serve in Parliament, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, That, from and after the first day of *August*, one thousand seven hundred and eighty-two, no commissioner, collector, supervisor, gauger, or other officer or person whatsoever, concerned or employed in the charging, collecting, levying, or managing the duties of excise, or any branch or part thereof; nor any commissioner, collector, comptroller, searcher, or other officer or person whatsoever, concerned or employed in the charging, collecting, levying, or managing the customs, or any branch or part thereof; nor any commissioner, officer, or other person concerned or employed in collecting, receiving, or managing, any of the duties on stamped vellum, parchment, and paper, nor any person appointed by the commissioners for distributing of stamps; nor any commissioner, officer, or other person employed in collecting, levying, or managing, any of the duties on salt; nor any surveyor, collector, comptroller, inspector, officer, or other person employed in collecting, managing, or receiving, the duties on windows or houses; nor any postmaster, postmasters general, or his or their deputy or deputies, or any person employed by or under him or them in receiving, collecting, or managing, the revenue of the post-officer, or any part thereof, nor any captain, master, or mate, of any ship, packet, or other vessel, employed by or under the postmaster or postmasters general in conveying the mail to and from foreign ports, shall be capable of giving his vote for the election of any knight of the shire, commissioner, citizen, burgess, or baron, to serve in Parliament for any county, stewartry, city, borough, or cinque port, or for chusing any delegate in whom the right of electing members to serve in Parliament, for that part of *Great Britain* called *Scotland*, is vested: And if any person, hereby made incapable of voting as aforesaid, shall nevertheless presume to give his vote, during the time he shall hold, or within twelve calendar months after he shall cease to hold or execute any of the offices aforesaid, contrary to the true intent and meaning of this Act, such votes so given shall be held null and void to all intents and purposes whatsoever, and every person so offending shall forfeit the sum of one hundred pounds, one moiety thereof to the informer, and the other moiety thereof to be immediately paid into the hands of the treasurer of the county, riding, or division, within which such offence shall have been committed, in that part of *Great Britain* called *England;* and into the hands of the clerk of the justices of the peace of the counties or stewartries, in that part of *Great Britain* called *Scotland*, to be applied and disposed of to such purposes as the justices at the next general quarter session of the peace to be held for such county, stewartry, riding, or division, shall think fit; to be recovered, by any person that shall sue for the same, by action of debt, bill, plaint, or information, in any of his Majesty's courts of record at *Westminster*, in which no essoin, protection, privilege, or wager of law, or more than one imparlance, shall be allowed; or by summary complaint before the court of session in *Scotland;* and the person convicted

Penalty for persons voting who are disqualified by this Act.

No. IX.
22 Geo. III. c. 41.

on any such suit shall thereby become disabled and incapable of ever bearing or executing any office or place of trust whatsoever under his Majesty, his heirs and successors.

II. Provided always, and be it enacted, That nothing in this Act contained shall extend, or be construed to extend, to any person or persons for or by reason of his or their being a commissioner or commissioners of the land tax, or for or by reason of his or their acting by or under the appointment of such commissioners of the land tax, for the purpose of assessing, levying, collecting, receiving, or managing the land tax, or any other rates or duties already granted or imposed, or which shall hereafter be granted or imposed, by authority of Parliament.

Not to extend to commissioners of the land tax, or persons acting under them;

III. Provided also, and be it further enacted, That nothing in this Act contained shall extend, or be construed to extend, to any office now held, or usually granted to be held, by letters patent for any estate of inheritance or freehold.

nor to offices held by letters patent for any estate of inheritance;

IV. Provided always, and be it enacted by the authority aforesaid, That nothing herein contained shall extend to any person who shall resign his office or employment on or before the said first day of *August*, one thousand seven hundred and eighty-two.

nor to persons who shall resign their offices before Aug. 1, 1782.

V. Provided also, and be it enacted, That no person shall be liable to any forfeiture or penalty by this Act laid or imposed, unless prosecution be commenced within twelve months after such penalty or forfeiture shall be incurred.

Limitation of actions.

[No. X.] 49 George III. c. 118.—An Act for better securing the Independence and Purity of Parliament, by preventing the procuring or obtaining of Seats in Parliament by corrupt Practices.—[19th *June* 1809.]

No. X.
49 Geo. III. c. 118.

'WHEREAS it is expedient to make further provision for preventing corrupt practices in the procuring of elections and returns of members to sit in the House of Commons: And whereas the giving, or procuring to be given, or promising to give or to procure to be given any sum of money, gift or reward, or any office, place, employment, or gratuity, in order to procure the return of any member to serve in Parliament, if not given to or for the use of some person having a right or claiming to have a right to act as returning officer, or to vote at such election, is not bribery within the meaning of an Act passed in the second year of King *George* the Second, intituled, *An Act for the more effectual preventing Bribery and Corruption in the Election of Members to serve in Parliament*, but such gifts or promises are contrary to the ancient usage, right, and freedom of elections, and contrary to the laws and constitution of this realm:' Be it declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person or persons shall, from and after the passing of this Act, either by himself, herself, or themselves, or by any other person, or persons for or in his, her, or their behalf, give or cause to be given, directly or indirectly, or promise or agree to give any sum of money, gift or reward, to any person or persons, upon any engagement, contract, or agreement, that such person or persons to whom, to whose use, or on whose behalf such gift or promise shall be made, shall, by himself, herself, or themselves, or by any other person or persons whatsoever at his, her, or their solicitation, request or command, procure or endeavour to procure the return of any person to serve in parliament for any county, stewartry city, town, borough, cinque port, or place, every person so having given or promised to give, if not returned himself to Parliament for such county, stewartry, city, town, borough, cinque port, or place, shall for every such gift or promise forfeit the sum of one thousand pounds, to be recovered in such manner as is herein after provided, with respect to the sum of five hundred pounds; and every such person so returned and so having given or so having promised to give, or knowing of and consenting to such gifts

2 G. 2. c. 24.

Penalties on persons giving or receiving money, &c. on any engagement to procure or endeavour to procure the election or return of a member in Parliament, viz. on the party giving, if not returned as a member, 1000*l.*;

No. X. 49 Geo. III. c. 118.

or promises, upon any such engagement, contract, or agreement, shall be and is hereby declared and enacted to be disabled and incapacitated to serve in that Parliament for such county, stewartry, city, town, borough, cinque port, or place, and that such person shall be deemed and taken, and is hereby declared and enacted to be deemed and taken to be no member of Parliament, and enacted to be, to all intents, constructions, and purposes, as if he had never been returned or elected a member in Parliament; and any person or persons who shall receive or accept of, by himself, herself, or themselves, or by any other person or persons in trust for or to the use or on the behalf of him, her, or them, any such sum of money, gift, or reward, or any such promise upon any such engagement, contract, or agreement, shall forfeit to his Majesty the value and amount of such sum of money, gift, or reward, over and above the sum of five hundred pounds, which said sum of five hundred pounds he, she, or they shall forfeit to any person who shall sue for the same, to be recovered with such costs of suit by action of debt, bill, plaint, or information, in any of his Majesty's courts of record at *Westminster*, if the offence be committed in that part of the the united kingdom called *England* and *Wales*, and in any of his Majesty's courts of record at *Dublin*, if the offence be committed in *Ireland*, wherein respectively no essoign or wager of law, or more than one imparlance shall be allowed; and if the offence be committed in *Scotland*, then to be recovered with full costs of suit by summary action or complaint before the court of session, or by prosecution before the court of justiciary there.

on the party giving, or privy, if returned member, forfeiture of his seat; on the party receiving, forfeiture of money received, and 500*l.*

Exception as to legal expences.

II. Provided always, and be it further enacted, That nothing in this Act contained shall extend, or be construed to extend, to any money paid or agreed to be paid to or by any person, for any legal expence *bonâ fide* incurred at or concerning any election.

Penalties on persons giving or promising to give, or receiving any office, &c. on express contract to procure a seat in Parliament, viz. on the member returned, loss of seat; on receiver of the office, forfeiture, incapacity and 500*l.*; and on giver of the office, 1000*l.*

III. And be it further enacted, That if any person or persons shall, from and after the passing of this Act, by himself, herself, or themselves, or by any other person or persons for or on his, her, or their behalf, give or procure to be given, or promise to give or procure to be given, any office, place, or employment, to any person or persons whatsoever, upon any express contract or agreement that such person or persons, to whom or to whose use or on whose behalf such gift or promise shall be made, shall by himself, herself, or themselves, or by any other person or persons at his, her or their solicitation, request, or command, procure, or endeavour to procure the return of any person to serve in Parliament for any county, stewartry, city, town, borough, cinque port, or place, such person so returned, and so having given or procured to be given, or so having promised to give or procured to be given, or knowing of and consenting to such gift or promise upon any such express contract or agreement, shall be and is hereby declared and enacted to be disabled and incapacitated to serve in that Parliament for such county, stewartry, city, town, borough, cinque port, or place, and that such person shall be deemed and taken, and is hereby declared and enacted to be deemed and taken to be no member of Parliament, and enacted to be to all intents, constructions, and purposes as if he had never been returned or elected a member in Parliament; and any person who shall receive or accept of, by himself, herself, or themselves, or by any other person or persons in trust for or to the use or on the behalf of such persons, any such office, place, or employment, upon such express contract or agreement, shall forfeit such office, place, or employment, and be incapacitated for holding the same, and shall forfeit the sum of five hundred pounds, which said sum of five hundred pounds shall be recovered as is herein before enacted; and any person holding any office under his Majesty, who shall give such office, appointment, or place, upon any such express contract or agreement, that the person to whom or for whose use such office, appointment, or place shall have been given, shall so procure or endeavour to procure the return of any person to serve in Parliament, shall forfeit the sum of one thousand pounds, to be recovered in such manner as is herein before provided.

Limitation of actions.

IV. And be it further enacted, That no person shall be made liable to any forfeiture or penalty by this Act created or imposed, unless some pro-

secution, action or suit, for the offence committed, shall be actually and legally commenced against such person within the space of two years next after such offence against this Act shall be committed, and unless such person shall be actually and legally arrested, summoned, or otherwise served with any original or other writ or process within the same space of time, so as such arrest, summons, or service of any original or other writ or process shall not be prevented by such person absconding or withdrawing out of the jurisdiction of the court out of which such original or other writ or process shall have issued; and in case of any such prosecution, suit, or process as aforesaid, the same shall be proceeded in and carried on without any wilful delay; and that all statutes of jeofails and amendments of the law whatever shall and may be construed to extend to all proceedings in any such prosecution, action, or suit.

No. X. 49 Geo. III. c. 118. Two years.

Part V.—Class XXI.

LIBELS, SCANDALUM MAGNATUM, &c.

[No. I.] 3 Edward I. c. 34.—None shall report slanderous News whereby Discord may arise.

No. I. 3 Edward I. c. 34.

"FORASMUCH as there have been oftentimes found in the country "divisors of tales, whereby discord, or occasion of discord, hath many "times arisen between the King and his people, or great men of this "realm;" 'For the damage that hath and may thereof ensue, it is com-'manded, That from and henceforth none be so hardy to tell or publish 'any false news or tales, whereby discord, or occasion of discord or slan-'der may grow between the King and his people, or the great men of the 'realm; and he that doth so, shall be taken and kept in prison, until he 'hath brought him into court, which was the first author of the tale.'

[No. II.] 2 Richard II. st. 1. c. 5.—The Penalty for telling slanderous Lyes of the Great Men of the Realm.

No. II. 2 Rich. II. c. 5.

"ITEM, of devisers of false news and of horrible and false lyes, of pre-"lates, dukes, earls, barons, and other nobles and great men of the "realm, and also of the chancellor, treasurer, clerk of the privy seal, "steward of the King's house, justices of the one bench or of the other, "and of the great officers of the realm, of things which by the said pre-"lates, lords, nobles, and officers aforesaid were never spoken, done, nor "thought, in great slander of the said prelates, lords, nobles, and officers, "whereby debates and discords might arise betwixt the said lords, or be-"tween the lords and the commons (which God forbid) and whereof great "peril and mischief might come to all the realm, and quick subversion and "destruction of the said realm, if due remedy be not provided:" 'It is 'straitly defended upon grievous pain, for to eschew the said damages and 'perils, that from henceforth none be so hardy to devise, speak, or to tell 'any false news, lyes, or other such false things, of prelates, lords, and of 'other aforesaid, whereof discord or any slander might rise within the same 'realm; and he that doth the same shall incur and have the pain another

No. II. 8 Rich. II. c. 5.

'time ordained thereof by the statute of *Westminster* the first, which wills 'that he be taken and imprisoned till he have found him of whom the word 'was moved.'

[No. III.] 12 Richard II. c. 11.—The Punishment of him that telleth Lies of the Peers or Great Officers of the Realm.

No. III. 12 Rich. II. c. 11.

"ITEM, Whereas it is contained, as well in the statute at *Westminster* "the first, as in the statute made at *Gloucester*, the second year of the "reign of our Lord the King that now is, that none be so hardy to invent, "to say, or to tell any false news, lies, or such other false things, of the "prelates, dukes, earls, barons, and other nobles and great men of the "realm, and also of the chancellor, treasurer, clerk of the privy seal, and "steward of the King's house, the justice of the one bench or of the other, "and other great officers of the realm, and he that doth so shall be taken "and imprisoned, till he hath found him of whom the speech shall be "moved;" 'It is accorded and agreed in this Parliament, That when any 'such is taken and imprisoned, and cannot find him by whom the speech 'be moved, as before is said, that he be punished by the advice of the 'council, notwithstanding the said statutes.'

[No. IV.] 1 and 2 Philip and Mary, c. 3.—A Confirmation of the Stat. of 3 *Ed.* 1. *c.* 34, and 2 *R.* 2. *Stat.* 1. *c.* 5. touching telling of News. Justices of Peace in every Shire, City, &c. shall have Authority to hear and determine the said Offences, and to put the said two Statutes in Execution. If any Person shall be convicted or attainted for speaking maliciously of his own Imagination, any false, seditious and slanderous News, Saying, or Tales, of the King or Queen, then he shall for his first Offence be set on the Pillory in some Market-place near where the Words were spoken, and have both his Ears cut off, unless he pay to the Queen an hundred Pound within one Month after Judgment given, and also shall be three Months imprisoned: And if he shall speak any such slanderous and seditious News or tales of the Speaking or Report of any other, then he shall be set on the Pillory, and have one of his Ears cut off, unless he pay an hundred Marks to the Queen's Use within one Month after, and shall be one Month imprisoned: And if he shall do it by Book, Rhyme, Ballad, Letter or Writing, he shall have his right Hand stricken off. And if any Person being once convicted of any of the Offences aforesaid, do afterwards offend, he shall be imprisoned during his Life, and forfeit all his Goods and Chattels. EXP. 4 *&* 5 *Ph. & M.* c. 9. 1 *Eliz. c.* 6.

[No. V.] 13 and 14 Charles II. c. 33.—An Act for preventing the frequent Abuses in printing seditious, treasonable, and unlicensed Books and Pamphlets, and for regulating of Printing and Printing Presses.

[See 4 Bl. Com. 152. n.]

[No. VI.] 1 James II. c. 17.—An Act for reviving and Continuance of several Acts of Parliament therein mentioned.

No. VI. 1 James II. c. 17.

XV*. AND be it further enacted by the authority aforesaid, That one other Act made in the thirteenth and fourteenth years of his said late Majesty's reign, intituled, *An Act for preventing the frequent Abuses in printing seditious, treasonable, and unlicensed Books and Pamphlets, and for regulating of Printing and Printing Presses*, and every clause, article, and thing therein contained, be revived and continue in force from the four and twentieth day of *June*, in the year of our Lord one thousand six hundred eighty-five, for the space of seven years, and from thence to the end of the next session of Parliament.

13 and 14 Car. 2. c. 33, the press for seven years.

* Other part in vol. ii.

[No. VII.] 4 and 5 William and Mary, c. 24.—An Act for reviving, continuing, and explaining several Laws therein mentioned, which are expired and near expiring.

[The licensing Act, 13 and 14 Car. II. further continued for one Year.]

[No. VIII.] 32 George III. c. 60.—An Act to remove Doubts respecting the Functions of Juries in Cases of Libel.

No. VIII. 32 Geo. III. c. 60.

'WHEREAS doubts have arisen whether on the trial of an indictment or information for the making or publishing any libel, where an issue or 'issues are joined between the King and the defendant or defendants, on 'the plea of not guilty pleaded, it be competent to the jury impanelled to try 'the same to give their verdict upon the whole matter in issue:' Be it therefore declared and enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, on every such trial, the jury sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue upon such indictment or information; and shall not be required or directed, by the court or judge before whom such indictment or information shall be tried, to find the defendant or defendants guilty, merely on the proof of the publication by such defendant or defendants of the paper charged to be a libel, and of the sense ascribed to the same in such indictment or information.

Preamble. On the trial of an indictment for a libel, the jury may give a general verdict upon the whole matter put in issue, and shall not be required by the Court to find the defendant guilty merely on proof of the publication, and of the sense ascribed to it in the information.

II. Provided always, That on every such trial, the court or judge before whom such indictment or information shall be tried, shall, according to their or his discretion, give their or his opinion and directions to the jury on the matter in issue between the King and the defendant or defendants, in like manner as in other criminal cases.

But the Court shall give their opinion and directions on the matter in issue, as in other criminal cases.

III. Provided also, That nothing herein contained shall extend, or be construed to extend, to prevent the jury from finding a special verdict, in their discretion, as in other criminal cases.

Jury may find a special verdict.

IV. Provided also, That in case the jury shall find the defendant or defendants guilty, it shall and may be lawful for the said defendant or defendants to move in arrest of judgment, on such ground and in such manner as by law he or they might have done before the passing of this Act; any thing herein contained to the contrary notwithstanding.

Defendants may move in arrest of judgment, as before passing this Act.

[No. IX.] 38 George III. c. 78.—An Act for preventing

the Mischiefs arising from the printing and publishing Newspapers, and Papers of a like Nature, by Persons not known; and for regulating the Printing and Publication of such Papers in other Respects.—[28*th June*, 1798.]

[I. After 40 days from the passing this Act, no person to print or publish a newspaper until an affidavit be delivered at the Stamp-office.]

[II. Affidavit to specify the names and abode of the printer, publisher, and of the proprietors, if they do not exceed two, exclusive of the printer and publisher, and if they do, then of two proprietors, and their proportional shares, and the description of the printing-house, and title of the paper.]

[III. Where the proprietors exceed two, the names of two of the greatest proprietors, exclusive of the printer and publisher, to be specified in the affidavit.]

[IV. Affidavit to be made as often as the printers, publishers, or proprietors, named therein, or their respective abodes, shall be changed, &c. or as often as the commissioners for stamps shall require.]

[V. Affidavit to be signed by the parties, and taken by a commissioner or officer specially appointed.]

[VI. Where the printers, publishers, and proprietors, required to be named in the affidavit, do not exceed four, the whole to swear; and where they do exceed that number, four to swear to certain particulars, and to give notice to the parties not swearing, on penalty of 50*l.* each.]

No. IX.
38 Geo. III. c. 78.

[VII. Penalty of 100*l.* for printing, publishing, or vending a newspaper without such affidavit having been signed, &c.]

[VIII. Persons making false or imperfect affidavits, liable to the penalties for perjury.]

Affidavits to be filed, and they, or certified copies, to be admitted in all proceedings, civil or criminal, as evidence of the truth of their contents, against the persons swearing, and all mentioned therein, unless proved to the contrary:

IX. AND be it further enacted, That all such affidavits and affirmations as aforesaid shall be filed and kept in such manner as the said commissioners shall direct, and the same, or copies thereof certified to be true copies, as hereinafter is mentioned, shall respectively, in all proceedings, civil and criminal, touching any newspaper, or other such paper as aforesaid, which shall be mentioned in any such affidavits or affirmations, or touching any publication, matter, or thing contained in any such newspaper or other paper, be received and admitted as conclusive evidence of the truth of all such matters set forth in such affidavits or affirmations as are hereby required to be therein set forth, against every person who shall have signed and sworn or affirmed such affidavits or affirmations, and shall also be received and admitted, in like manner, as sufficient evidence of the truth of all such matters against all and every person who shall not have signed or sworn or affirmed the same, but who shall be therein mentioned to be a proprietor, printer, or publisher of such newspaper or other paper, unless the contrary shall be satisfactorily proved: Provided always, That if any such person or persons respectively, against whom any such affidavit or affirmation, or any copy thereof, shall be offered in evidence, shall prove that he, she, or they hath or have signed, sworn or affirmed, and delivered to the said commissioners or such officer as aforesaid, previous to the day of the date or publication of the newspaper, or other such paper as aforesaid, to which the proceedings, civil or criminal, shall relate, an affidavit or affirmation that he, she, or they hath or have ceased to be the printer or printers, proprietor or proprietors, or publisher or publishers of such newspaper, or other such paper as aforesaid, such person or persons shall not be deemed, by reason of any former affidavit or affirmation so delivered as aforesaid, to have been the printer or printers, proprietor or proprietors, or publisher or publishers, of such paper, after the day on which such last mentioned affidavit or affirmation shall have been delivered to the said commissioners, or their officer as aforesaid (1).

But if any person shall have delivered, previous to the publication of the paper to which the proceedings relate, an affidavit that he has ceased to be printer, &c. he shall not be so deemed after such delivery.

(1) An action for work and labour cannot be maintained by a printer for printing and publishing a weekly periodical work, parts of which were printed on stamped paper, and distributed as newspapers, and parts on unstamped paper, which were half yearly bound

No. IX. 38 Geo. III. c. 78.

In newspapers there shall be printed the names and abode of printers and publishers, on penalty of 100*l.* and proof, in manner herein mentioned, that the party is the printer, &c. shall be sufficient, unless proved to the contrary. After production of the affidavit, or copy, and a paper intituled as therein mentioned, &c. it shall not be necessary for a prosecutor for penalties under this Act to prove the purchase of the paper. Service at the printing house mentioned in affidavit, to be deemed sufficient notice to all persons named therein: But if any person shall have delivered previous to the publication of the paper to which the proceedings relate, an affidavit that he has

X. And be it further enacted, That in some part of every newspaper, or other such paper as aforesaid, there shall be printed the true and real name and names, addition and additions, and place and places of the abode of the printer and printers, and publisher and publishers of the some, and also a true description of the place where the same is printed; and in case any person or persons shall knowingly and wilfully print or publish, or cause to be printed or published, any such newspaper or other paper as aforesaid, not containining the particulars aforesaid, and every of them, every such person shall forfeit and lose the sum of one hundred pounds; and that proof made in manner herein mentioned, in any proceeding to recover the same, that the party proceeded against is a printer or publisher of a newspaper or other such paper so printed or published as aforesaid, shall be deemed and taken to be proof that such party is a person wilfully and knowingly printing or publishing, or causing the same to be printed or published, unless he shall satisfactorily prove the contrary thereof (1).

XI. And be it further enacted, That it shall not be necessary, after any such affidavit or affirmation, or a certified copy thereof, shall have been produced in evidence as aforesaid against the persons who signed and made such affidavit, or are therein named, according to this Act, or any of them, and after a newspaper, or other such paper as aforesaid, shall be produced in evidence, intituled in the same manner as the newspaper or other paper mentioned in such affidavit or copy is intituled, and wherein the name or names of the printer and publisher, or printers and publishers, and the place of printing, shall be the same as the name or names of the printer and publisher, or printers and publishers, and the place of printing mentioned in such affidavit or affirmation, for the plaintiff, informant, or prosecutor, or person seeking to recover any of the penalties given by this Act, to prove that the newspaper, or paper to which such trial relates, was purchased at any house, shop, or office, belonging to or occupied by the defendant or defendants, or any of them, or by his or their servants or workmen, or where he or they, by themselves or their servants or workmen, usually carry on the business of printing or publishing such paper, or where the same is usually sold.

XII. And be it further enacted, That service at the house or place mentioned in such affidavit or affirmation as aforesaid, as the house or place at which such newspaper, or other such paper as aforesaid, to which any proceedings, civil or criminal, shall relate, is printed or published, or intended so to be, of any legal notice, summons, subpœna, rule, order, or process, of what nature whatsoever, or to enforce an appearance in any suit, prosecution, or proceeding, civil or criminal, against any printer, publisher, or proprietor of any such newspaper or other paper, shall be deemed and taken to be good and sufficient service thereof respectively, against all persons named in such affidavit or affirmation as the proprietor or proprietors, publisher or publishers, or printer or printers of the newspaper or other paper mentioned in such affidavit or affirmation: Provided always, That if any such person or persons respectively as aforesaid shall have signed, sworn, or affirmed, and delivered to the said commissioners, or such officer as aforesaid, previous to the day of the date or publication of the newspaper, or other such paper as aforesaid, to which the proceeding in Court shall relate, an affidavit or affirmation that he or they have ceased

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into volumes, unless such printer lodge an affidavit at the stamp-office, or have his name and place of abode printed in some part of the publication, as required by the statute 38 Geo. 2. c. 78, Marchant v. Evans, 2 Moore 14.

(1) An affidavit made and signed by the printer and publisher and proprietor of a newspaper as required by stat. 38 Geo. III. c. 78, which affidavit contained the names of the parties, the place where the paper was printed, and the title of it; together with the production of a newspaper, tallying in every respect with the description of it in the affidavit: is not only evidence by that act of the publication of such paper by the parties named, but is evidence of its publication in the county where the printing of it is described to be; and this upon the trial of an information for a libel contained in such newspaper. Rex v. Hart, Rex v. White, 10 E. R. 94.

No. IX. 38 Geo. III. c. 78.

to be the printer or printers, proprietor or proprietors, publisher or publishers of such newspaper, or other such paper as aforesaid, and shall make proof thereof, such person or persons shall not be deemed, by reason of any former affidavit or affirmation so delivered as aforesaid, to have been the proprietor or proprietors, printer or printers, publisher or publishers of such paper, after the day on which such last-mentioned affidavit or affirmation shall have been delivered to the said commissioners, or such other officer as aforesaid.

ceased to be printer, &c. he shall be not so deemed after such delivery.

XIII. And be it further enacted, That the commissioners or officers by whom such affidavits or affirmations shall be kept, according to the directions of this Act, shall, and they are hereby required, upon application made to them by any person or persons requiring a copy certified according to this Act, of any such affidavit or affirmation as aforesaid, in order that the same may be produced in any civil or criminal proceedings, to deliver to the person so applying for the same such certified copy, he or they paying for the same the sum of one shilling and no more.

Certified copies of affidavits to be delivered on payment of 1*s*.

XIV. 'And whereas in many cases it may be productive of public inconvenience to require that the commissioners or officers before whom such affidavits or affirmations, as are hereinbefore mentioned, are made, should be required personally to attend, in order to prove, upon the trial of any action, prosecution, suit, indictment, information, or in any other proceeding, that the parties signing, swearing, or affirming, and delivering such affidavit or affidavits, affirmation or affirmations, did swear or affirm the same in the presence of, and did deliver the same to such commissioners and officers, before and to whom the same shall have been sworn, affirmed, or delivered respectively;' Be it enacted, That in all cases a copy of any such affidavit or affirmation, certified to be a true copy under the hand or hands of one or more of the commissioners or officers in whose possession the same shall be, shall, upon proof made that such certificates have been signed with the hand writing of the person or persons making the same, and whom it shall not be necessary to prove to be a commissioner or commissioners, or officer or officers, be received in evidence as sufficient proof of such affidavit or affirmation, and that the same was duly sworn or affirmed, and of the contents thereof; and such copies, so produced and certified, shall also be received as evidence that the affidavit or affirmation, of which they purport to be copies, have been sworn or affirmed according to this Act, and shall have the same effect, for the purposes of evidence, to all intents whatsoever, as if the original affidavits or affirmations, of which the copies so produced and certified shall purport to be copies, had been produced in evidence, and been proved to have been duly so certified, sworn, and affirmed, by the person or persons appearing by such copy to have sworn or affirmed the same as aforesaid.

Copies of affidavits certified by the commissioners or officers in whose custody they shall be, to be sufficient evidence.

[XV. Penalty of 100*l*. on unauthorized persons giving certificates.]

[XVI. Penalty of 100*l*. for falsely certifying that affidavits were sworn to, or that false copies are true, &c.]

[XVII. After July 1, 1798, a copy of every newspaper to be delivered within six days of its publication to the commissioners of stamps, or their officer, on penalty of 100*l*. the paper to be paid for by the commissioners, and may, within two years after publication, be produced as evidence in any proceeding, civil or criminal.]

[XVIII. Penalty of 20*l*. for printing or publishing newspapers not duly stamped.]

[XIX. Penalty of 20*l*. for having a newspaper not duly stamped.]

[XX. Penalty of 100*l*. for sending or procuring newspapers not duly stamped to be sent out of Great Britain.]

[XXI. Penalty of 500*l*. for sending, or procuring to be sent, during the war, newspapers, stamped or unstamped, to any country not in amity with his Majesty.]

[XXII. On oath that any person has a newspaper intended to be sent to any country not in amity with his Majesty, a justice may summon and examine the party.—Penalty for not answering lawful questions, 50*l*.—Papers to be forfeited.]

No. IX.
38 Geo. III. c. 78.

[XXIII. The names and abode of proprietors out of Great Britain to be specified in affidavit.]

XXIV. 'And whereas matters tending to excite hatred and contempt of 'the person of his Majesty, and of the constitution and government estab- 'lished in these kingdoms, are frequently published in newspapers, or other 'papers, under colour of having been copied from foreign newspapers, or 'other papers of a like nature;' Be it enacted, That if any person shall print or publish, or cause to be printed or published, in any newspaper, or other such paper as aforesaid, that shall be printed or published in that part of *Great Britain* called *England*, any matter or thing having such tendency as aforesaid, as having been previously printed or published in some foreign paper or print, which hath not been previously so printed or published, such person shall, being lawfully convicted thereof, be committed to prison for any time not exceeding twelve nor less than six months, and shall be liable to such other punishment as may by law be inflicted in cases of high misdemeanors; and in every proceeding against any person in respect of his having so printed or published as aforesaid any such matter or thing as aforesaid, it shall be incumbent upon the person against whom the proceeding shall be, to make proof that the same had been previously printed and published in some foreign paper or print; and in case he shall fail so to do, the same shall be deemed and taken not to have been so previously printed and published.

Penalty for printing or publishing any seditious matter under colour of having been printed in a foreign paper, from six to 12 months' imprisonment, and other punishment, as for a misdemeanor.

Proof of its having been so previously printed to lie on the defendant.

XXV. Provided always, and be it further enacted, That if such proof shall be made, the publication respecting which such proceeding shall be had shall nevertheless be deemed and taken to be of such nature in the law as the same would have been deemed and taken to be if this Act had not been made.

If such proof be made, the publication to be deemed of the same nature as it would have been before this Act.

[XXVI. After forty days after passing this Act, none but commissioners of stamps, or their officer, to supply paper stamped for printing newspapers, until the person so supplying has given security to deliver, once in six weeks, an account of the quantities and kind sold, &c. on penalty of 100*l.*]

[XXVII. Persons concerned in printing or publishing newspapers not legally stamped, to be debtors to his Majesty in the sum that would have accrued if duly stamped, &c.]

[XXVIII. To bills for the discovery of proprietors, printers, editors, or publishers of newspapers, the defendants shall not demur; but shall make the discovery required.]

Recovery and application of penalties.

XXIX. And be it further enacted, That all fines, penalties, and forfeitures by this Act imposed, which shall exceed the sum of twenty pounds, shall (except where this Act hath otherwise directed) be recovered by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at *Westminster*, or the courts of great session in the principality of *Wales*, or the courts of the counties palatine of *Chester*, *Lancaster*, and *Durham*, or in the court of session or court of exchequer in *Scotland*, (as the case shall require), wherein no essoin, privilege, protection, wager of law, or more than one imparlance shall be allowed; and that all fines, penalties, and forfeitures, by this Act imposed, which shall not exceed the sum of twenty pounds, shall, on proof upon oath of the offence before any justice of the peace of the county, riding, stewartry, city, or place, where the offence shall be committed, be levied by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of such justice, rendering the overplus, if any, on demand, after deducting the charges of such distress and sale, to the person whose goods and chattels have been so distrained and sold; and for want of sufficient distress, such justice is hereby required, in all cases where no particular time of commitment is hereinbefore directed, to commit such offender to the common gaol of the county, riding, stewartry, city, or place, where the offence shall have been committed, for any time not exceeding three months; and the money arising by all such fines, penalties, and forfeitures, when recovered, shall be, as to one moiety thereof, to and for the use of our Sovereign Lord the King, his heirs and successors, and as to the other moiety thereof, to and for the use of such person who shall inform or sue for the same, ex-

No. IX. 38 Geo. III. c. 78.

cept in such cases in which the application thereof is otherwise di... by this Act.

[XXX. No order or conviction of a justice to be removed into ...y Court or the execution superseded.]

[XXXI. Act to extend to Scotland in certain cases only.]

[XXXII. Act may be repealed or altered this session.]

[No. X.] 60 George III. and 1 George IV.—An Act for the more effectual Prevention and Punishment of blasphemous and seditious Libels.—[30*th December* 1819.]

No. X. 60 Geo. III. & 1 Geo. IV. c. 8.

WHEREAS it is expedient to make more effectual provision for the punishment of blasphemous and seditious libels; Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, in every case in which any verdict or judgment by default shall be had against any person for composing, printing, or publishing any blasphemous libel, or any seditious libel, tending to bring into hatred or contempt the person of his Majesty, his heirs or successors, or the regent, or the government and constitution of the united kingdom as by law established, or either house of Parliament, or to excite his Majesty's subjects to attempt the alteration of any matter in church or state as by law established, otherwise than by lawful means, it shall be lawful for the judge, or the Court before whom or in which such verdict shall have been given, or the Court in which such judgment by default shall be had, to make an order for the seizure and carrying away and detaining in safe custody, in such manner as shall be directed in such order, all copies of the libel which shall be in the possession of the person against whom such verdict or judgment shall have been had, or in the possession of any other person named in the order for his use; evidence upon oath having been previously given to the satisfaction of such Court or judge, that a copy or copies of the said libel is or are in the possession of such other person for the use of the person against whom such verdict or judgment shall have been had as aforesaid; and in every such case it shall be lawful for any justice of the peace, or for any constable or other peace officer acting under any such order, or for any person or persons acting with or in aid of any such justice of the peace, constable, or other peace officer, to search for any copies of such libel in any house, building, or other places whatsoever belonging to the person against whom any such verdict or judgment shall have been had, or to any other person so named, in whose possession any copies of any such libel, belonging to the person against whom any such verdict or judgment shall have been had, shall be; and in case admission shall be refused or not obtained within a reasonable time after it shall have been first demanded, to enter by force by day into any such house, building, or place whatsoever, and to carry away all copies of the libel there found, and to detain the same in safe custody until the same shall be restored under the provisions of this Act, or disposed of according to any further order made in relation thereto.

Court to make order for the seizure of copies of the libel in possession of the persons against whom verdicts shall have been had, &c.

II. And be it further enacted, That if in any such case as aforesaid judgment shall be arrested, or if, after judgment shall have been entered, the same shall be reversed upon any writ of error, all copies so seized shall be forthwith returned to the person or persons from whom the same shall have been so taken as aforesaid, free of all charge and expence, and without the payment of any fees whatever; and in every case in which final judgment shall be entered upon the verdict so found against the person or persons charged with having composed, printed, or published such libel, then all copies so seized shall be disposed of as the Court in which such judgment shall be given shall order and direct.

Copies of libels so seized to be restored if judgment for defendant; otherwise to be disposed of as the Court shall direct.

III. Provided always, and be it enacted, That in *Scotland*, in every case in which any person or persons shall be found guilty before the Court of Justiciary, of composing, printing, or publishing any blasphemous or sedi-

Court of Justiciary in Scotland to make

[X bel, or where sentence of fugitation shall have been pronounced against any person or persons, in consequence of their failing to appear to answer any indictment charging them with having composed, printed, or published any such libel, then and in either of such cases, it shall and may be lawful for the said Court to make an order for the seizure, carrying away, and detaining in safe custody, all copies of the libel in the possession of any such person or persons or in the possession of any other person or persons named in such order, for his or their use, evidence upon oath having been previously given to the satisfaction of such court or judge that a copy or copies of the said libel is or are in the possession of such other person for the use of the person against whom such verdict or judgment shall have been had as aforesaid; and every such order so made shall and may be carried into effect, in such and the same manner as any order made by the Court of Justiciary, or any Circuit Court of Justiciary, may be carried into effect according to the law and practice of *Scotland:* Provided always, that in the event of any person or persons being reponed against any such sentence of fugitation, and being thereafter acquitted, all copies so seized shall be forthwith returned to the person or persons from whom the same shall have been so taken as aforesaid; and in all other cases, the copies so seized shall be disposed of in such manner as the said Court may direct.

order for seizing copies of libels, &c.

IV. And be it further enacted, That if any person shall, after the passing of this Act, be legally convicted of having after the passing of this Act composed, printed, or published any blasphemous libel or any such seditious libel as aforesaid, and shall, after being so convicted, offend a second time, and be thereof legally convicted before any commission of Oyer and Terminer or gaol delivery, or in his Majesty's Court of King's Bench, such person may, on such second conviction, be adjudged, at the discretion of the Court, either to suffer such punishment as may now by law be inflicted in cases of high misdemeanors, or to be banished from the united kingdom, and all other parts of his Majesty's dominions, for such term of years as the Court in which such conviction shall take place shall order.

Punishment of persons convicted of second offence.

V. And be it further enacted, That in case any person so sentenced and ordered to be banished as aforesaid, shall not depart from this united kingdom within thirty days after the pronouncing of such sentence and order as aforesaid, for the purpose of going into such banishment as aforesaid, it shall and may be lawful to and for his Majesty to convey such person to such parts out of the dominions of his said Majesty, as his Majesty by and with the advice of his privy council shall direct.

Persons not departing within thirty days after sentence of banishment, may be conveyed out of his Majesty's dominions.

VI. And be it further enacted, That if any offender who shall be so ordered by any such court as aforesaid to be banished in manner aforesaid, shall after the end of forty days from the time such sentence and order hath been pronounced, be at large within any part of the united kingdom, or any other part of his Majesty's dominions, without some lawful cause, before the expiration of the term for which such offender shall have been so ordered to be banished as aforesaid, every such offender being so at large as aforesaid, being thereof lawfully convicted, shall be transported to such place as shall be appointed by his Majesty for any term not exceeding fourteen years; and such offender may be tried, either before any justices of assize, oyer and terminer, great sessions, or gaol delivery, for the county, city, liberty, borough, or place where such offender shall be apprehended and taken, or where he or she was sentenced to banishment; and the clerk of assize, clerk of the peace, or other clerk or officer of the court having the custody of the records where such order of banishment shall have been made, shall, when thereunto required on his Majesty's behalf, make out and give a certificate in writing, signed by him, containing the effect and substance only (omitting the formal part) of every indictment aud conviction of such offender, and of the order for his or her banishment, to the justices of assize, oyer and terminer, great sessions, or gaol delivery, where such offender shall be indicted, for which certificate six shillings and eightpence and no more shall be paid, and which certificate shall be sufficient proof of the conviction and order for banishment of any such offender.

Persons banished found at large within his Majesty's dominions to suffer transportation.

Certificate to be given of conviction of former libel.

VII. And be it further enacted, That the clerk of assize, clerk of the peace, or other clerk or officer of the court having the custody of the re-

No. X. 60 Geo. III. & 1 Geo. IV. c. 8.

cords where any offender shall have been convicted of having composed, printed, or published any blasphemous or seditious libel, shall, upon request of the prosecutor on his Majesty's behalf, make out and give a certificate in writing, signed by him, containing the effect and substance only (omitting the formal part) of every indictment and conviction of such offender, to the justices of assize, oyer and terminer, great sessions, or gaol delivery, where such offender or offenders shall be indicted for any second offence of composing, printing, or publishing any blasphemous or seditious libel, for which certificate six shillings and eight-pence and no more shall be paid, and which certificate shall be sufficient proof of the conviction of such offender.

Limitation of actions.

VIII. And be it further enacted, That any action and suit which shall be brought or commenced against any justice or justices of the peace, constable, peace officer, or other person or persons, within that part of *Great Britain* called *England*, or in *Ireland*, for any thing done or acted in pursuance of this Act, shall be commenced within six calendar months next after the fact committed, and not afterwards; and the venue in every such action or suit shall be laid in the proper county where the fact was committed, and not elsewhere; and the defendant or defendants in every such action or suit may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and if such action or suit shall be brought or commenced after the time limited for bringing the same, or the venue shall be laid in any other place than as aforesaid, then the jury shall find a verdict for the defendant or defendants; and in such case, or if the jury shall find a verdict for the defendant or defendants upon the merits, or if the plaintiff or plaintiffs shall become nonsuit, or discontinue his, her, or their actions after appearance, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs, which he or they shall and may recover in such and the same manner as any defendant can by law in other cases.

General issue may be pleaded.

Double costs.

Limitation of actions, &c. in Scotland.

IX. And be it further enacted, That every action and suit which shall be brought or commenced against any person or persons in *Scotland*, for any thing done or acted in pursuance of this Act, shall in like manner be commenced within six calendar months after the fact committed, and not afterwards, and shall be brought in the Court of Session in *Scotland;* and the defender or defenders may plead that the matter complained of was done in pursuance of this Act, and may give this Act and the special matter in evidence; and if such action or suit shall be brought or commenced after the time limited for bringing the same, then the same shall be dismissed; and in such case, or if the defender or defenders shall be assoilzied, or the pursuer or pursuers shall suffer the action or suit to fall asleep, or a decision shall be pronounced against the pursuer or pursuers upon the relevancy, the defender or defenders shall have double costs, which he or they shall or may receive in such and the same manner as any defender can by law recover costs or expences in other cases.

Double costs.

Not to alter the law of Scotland in respect to punishment for libels.

X. Provided always, and be it further enacted, That nothing in this Act contained shall be held or considered as in any respect altering the law or practice of *Scotland* regarding the punishment of persons convicted of composing, printing, publishing, or circulating any blasphemous or seditious libel.

Act may be repealed or altered this session.

XI. And be it further enacted, That this Act may be repealed in the whole or in any part thereof, or in any manner altered or amended, during the present session of Parliament.

No XI. 60 Geo. III. & 1 Geo. IV. c. 9.

[No XI.] 60 George III. and 1 George IV. c. 9.—An Act to subject certain Publications to the Duties of Stamps upon Newspapers, and to make other Regulations for restraining the Abuses arising from the Publication of blasphemous and seditious Libels.—[30th *December* 1819.]

WHEREAS pamphlets and printed papers containing observations upon public events and occurrences, tending to excite hatred and contempt

No. XI.
60 Geo. III. & 1 Geo. IV. c. 9.

of the government and constitution of these realms as by law established, and also vilifying our holy religion, have lately been published in great numbers, and at very small prices; and it is expedient that the same should be restrained: May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after ten days after the passing of this Act, all pamphlets and papers containing any public news, intelligence or occurrences, or any remarks or observations thereon, or upon any matter in church or state, printed in any part of the united kingdom for sale, and published periodically, or in parts or numbers, at intervals not exceeding twenty-six days between the publication of any two such pamphlets or papers, parts or numbers, where any of the said pamphlets or papers, parts or numbers respectively, shall not exceed two sheets, or shall be published for sale for a less sum than sixpence, exclusive of the duty by this Act imposed thereon, shall be deemed and taken to be newspapers within the true intent and meaning of an Act of Parliament passed in the thirty-eighth year of the reign of his present Majesty, intituled, *An Act for preventing the Mischiefs arising from the printing and publishing Newspapers and Papers of a like Nature, by Persons not known, and for regulating the Printing and Publication of such Papers in other respects;* and of another Act of Parliament, passed in the fifty-fifth year of the reign of his present Majesty, intituled, *An Act to provide for the Collection and Management of Stamp Duties upon Pamphlets, Almanacks, and Newspapers, in* Ireland; and of another Act passed in the fifty-fifth year of the reign of his present Majesty, intituled, *An Act for repealing the Stamp Office Duties on Advertisements, Almanacks, Newspapers, Gold and Silver Plate, Stage Coaches, and Licences for keeping Stage Coaches, now payable in* Great Britain; *and for granting new Duties in lieu thereof;* and of an Act passed in the fifty-sixth year of the reign of his present Majesty, intituled, *An Act to repeal the several Stamp Duties in* Ireland, *and also several Acts for the Collection and Management of the said Duties, and to grant new Stamp Duties in lieu thereof, and to make more effectual Regulations for calculating and managing the said Duties;* and all other Acts of Parliament in force relating to newspapers; and be subject to such and the same duties of stamps, with such and the same allowances and discounts, as newspapers printed in *Great Britain* and *Ireland* respectively now are subject unto under and by virtue of the said recited Acts of Parliament, and shall be printed, published, and distributed under and subject to all such and the like rules, regulations, restrictions, provisions, penalties, and forfeitures as are contained in the said recited Acts, or either of them, or in any other Act or Acts of Parliament now in force in *Great Britain* or *Ireland* respectively, relating to newspapers printed, published, dispersed or made public in the united kingdom; and the said recited Acts of Parliament, and all other Acts of Parliament now in force in *Great Britain* or *Ireland* respectively, relating to the printing, publishing, dispersing, or making public in *Great Britain* or *Ireland* respectively, any newspapers, or containing any regulations relating thereto, and all the clauses, provisions, regulations, restrictions, penalties, and forfeitures therein respectively contained, and in force at the passing of this Act, shall (except where the same may be altered by this Act) be applied and put in force in relation to all such pamphlets and printed papers aforesaid, as fully and effectually as if all such clauses, provisions, regulations, restrictions, penalties, and forfeitures were respectively, severally, and separately re-enacted in and made part of this Act; and the said recited Acts, and all other such Acts of Parliament as aforesaid, and this Act, shall, as to all the purposes of carrying this Act into execution, be construed as one Act.

Subjecting certain printed pamphlets and papers to the stamp duties upon newspapers, and to the regulations of recited Acts.

38 G. 3. c. 78.

55 G. 3. c. 80.

55 G. 3. c. 185.

56 G. 3. c. 56.

II. And be it further enacted, That no quantity of paper less than a quantity equal to twenty-one inches in length and seventeen inches in breadth, in whatever way or form the same may be made, or may be divided into leaves, or in whatever way the same may be printed, shall be deemed or taken to be a sheet of paper within the meaning and for the purposes of this Act.

No quantity of paper less than 21 inches in length, and 17 in breadth, to be deemed a sheet.

No. XI.
60 Geo. III.
& 1 Geo. IV.
c. 9.

III. And be it further enacted, That no cover or blank leaf, or any other leaf upon which any advertisement or other notice shall be printed, shall, for the purposes of this Act, be deemed or be taken to be a part of any such pamphlet, paper, part or number aforesaid.

No cover or blank leaf to be deemed part of a pamphlet.

IV. And be it further enacted, That all pamphlets and papers containing any public news, intelligence, or occurrences, or any such remarks or observations as aforesaid, printed for sale, and published periodically, or in parts or numbers, at intervals exceeding twenty-six days between any two such pamphlets or papers, parts or numbers, and which said pamphlets, papers, parts or numbers respectively, shall not exceed two sheets, or which shall be published for sale at a less price than sixpence, shall be first published on the first day of every calendar month, or within two days before or after that day, and at no other time; and that if any person or persons shall first publish or cause to be published any such pamphlet, paper, part or number aforesaid, on any other day or time, he or they shall forfeit for every such offence the sum of twenty pounds.

Publications at intervals exceeding 26 days, to be published on the first day of every calendar month, or within two days before or after. Penalty 20*l.*

V. And be it further enacted, That upon every pamphlet or paper containing any public news, intelligence or occurrences, or any remarks or observations thereon, or upon any matter in church or state, printed in any part of the united kingdom for sale, and published periodically, or in parts or numbers, at intervals not exceeding twenty-six days between the publication of any two such pamphlets or papers, parts or numbers, and upon every part or number thereof, shall be printed the full price at which every such pamphlet, paper, part, or number shall be published for sale, and also the day on which the same is first published; and if any person shall publish any such pamphlet, paper, part, or number, without the said price and day being printed thereon, or if any person shall at any time within two months after the day of publication printed thereon as aforesaid, sell or expose to sale any such pamphlet, paper, part or number, or any portion or part of such pamphlet, paper, part or number, upon which the price so printed as aforesaid shall be sixpence, or above that sum, for a less price than the sum of sixpence, every such person shall for every such offence forfeit and pay the sum of twenty pounds.

The price and day of publication to be printed on periodical publications, and penalty for omitting the same 20*l.*

VI. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to subject any person publishing any pamphlet or paper to any penalty for any allowance in price made by the person for whom and on whose behalf, and for whose profit, benefit, or advantage, the same shall have been first published, to any bookseller or distributor, or other person to whom the same shall be sold for the purpose of retailing the same.

Not to extend to the allowance made to distributors who buy to retail.

VII. And be it further enacted, That all pamphlets and papers which are by this Act declared to be subject to the stamp duties upon newspapers, shall be freed and discharged from all the stamp duties and regulations contained in any Act of Parliament relating to pamphlets.

Pamphlets liable to stamp duties freed from all regulations relating to pamphlets.

VIII. And be it further enacted, That no person, from and after thirty days after the passing of this Act, shall print or publish for sale, any newspaper, or any pamphlet or other paper containing any public news, intelligence, or occurrences, or any remarks or observations thereon, or upon any matter in church or state, which shall not exceed two sheets, or which shall be published for sale at a less price than sixpence, until he or she shall have entered into a recognizance before a baron of the Exchequer, in *England*, *Scotland*, or *Ireland* respectively, as the case may be, if such newspaper or pamphlet, or other paper aforesaid, shall be printed in *London* or *Westminster*, or in *Edinburgh* or *Dublin*, or shall have executed in the presence of, and delivered to some justice of the peace for the county, city, or place where such newspaper, pamphlet, or other paper shall be printed, if printed elsewhere, a bond to his Majesty, his heirs and successors, together with two or three sufficient sureties, to the satisfaction of the baron of the Exchequer taking such recognizance, or of the justice of the peace taking such bond, every person printing or publishing any such newspaper or pamphlet or paper aforesaid, in the sum of three hundred pounds, if such newspaper, pamphlet, or paper shall be printed in *London* or within twenty miles thereof, and in the sum of two hundred pounds, if such news-

No persons to print or publish newspapers, &c. or pamphlets, without entering into recognizance, or giving bond for securing fines upon conviction for libels.

paper, pamphlet, or paper shall be printed elsewhere in the united kingdom, and his or her sureties in a like sum in the whole, conditioned that such printer or publisher shall pay to his Majesty, his heirs and successors, every such fine or penalty as may at any time be imposed upon or adjudged against him or her, by reason of any conviction for printing or publishing any blasphemous or seditious libel, at any time after the entering into such recognizance or executing such bond; and that every person who shall print or first publish any such newspaper, pamphlet, or other paper, without having entered into such recognizance, or executed and delivered such bond with such sureties as aforesaid, shall, for every such offence, forfeit the sum of twenty pounds.

Penalty, 20*l.*

IX. Provided always, and be it further enacted, That in every case in which any surety or sureties in any such recognizance or bond shall have been required to pay and shall have paid the whole or any part of the sum for which he, she, or they shall have become surety; or in case any such surety or sureties shall become bankrupt, or be discharged under any insolvent Act; then and in every such case the person for whom such surety or sureties shall have been bound, shall not print or publish any newspaper or pamphlet, or other paper aforesaid, until he or she shall, upon being required so to do by the commissioners of stamps for *Great Britain* or *Ireland* respectively, have entered into a new recognizance, or executed a new bond, with sufficient sureties, in the manner and to the amount aforesaid; and in case he or she shall print or publish any such newspaper or pamphlet, or other paper aforesaid, without having entered into such new recognizance, or executed such new bond as aforesaid, having been required so to do as aforesaid, he or she shall forfeit for every such offence the sum of twenty pounds.

If sureties pay any part of the money for which they are bound, or become bankrupt, new recognizance or bond with sureties must be given.

Penalty, 20*l.*

X. Provided always, and be it further enacted, That if any surety or sureties shall be desirous of withdrawing from such recognizance or bond, it shall and may be lawful to and for him or them so to do, upon giving twenty days previous notice in writing to the said commissioners of stamps respectively, or to the distributor of stamps of and for the district where the printer or publisher for whom he or they is or are surety or sureties shall reside, and also to such printer or publisher; and that in any such case, every such surety or sureties, from and after the expiration of such notice, shall not be liable upon the said bond or recognizance, other than and except for any penalty or penalties before that time imposed or incurred, and for which he or they would otherwise have been liable under the said recognizance or bond; and that then and in every such case, the person for whom such surety or sureties shall have been bound, shall not print or publish any newspaper or pamphlet, or other paper aforesaid, until he or she shall have entered into a new recognizance, or executed a new bond, with sufficient sureties, in the manner and to the amount aforesaid; and in case he or she shall print or publish any such newspaper or pamphlet, or other paper aforesaid, without having entered into such new recognizance or bond as aforesaid, he or she shall for every such offence forfeit the sum of twenty pounds.

Sureties may withdraw from recognizance upon giving notice.

New recognizance to be entered into.

Penalty, 20*l.*

XI. Provided always, and be it further enacted, That no such bond as aforesaid shall be subject or liable to any stamp duty; any thing in any Act or Acts of Parliament to the contrary notwithstanding.

Bonds not to be subject to stamp duty.

XII. And be it further enacted, That lists of all the recognizances which shall have been entered into in the respective Courts of Exchequer in *England*, *Scotland*, or *Ireland* shall, four times in each year, be transmitted to the commissioners managing the stamp duties in *Great Britain* and *Ireland* respectively, as the case may be, by the respective officers recording such recognizances in such respective courts; and all bonds executed under the provisions of this Act, shall, within ten days at the furthest after the execution thereof be transmitted to the said commissioners respectively, by the justices of the peace to whom the same shall have been respectively delivered.

Lists of recognizances and bonds taken, to be transmitted to commissioners of stamps in England, Scotland, and Ireland respectively.

XIII. And whereas the printer or publisher of any newspaper, and of any pamphlet and paper hereby enacted to be deemed and taken to be a newspaper, will, after the passing of this Act, be bound, under and by vir-

Extending provisions of 38 G. 3. c. 78.

No. XI. 60 Geo. III. & 1 Geo. IV. c. 9. and 56 G. 3. c. 56. relating to the delivery of newspapers, &c. to the commissioners of stamps, to this Act;

tue of the provisions contained in the said Acts made and passed in the thirty-eighth and fifty-fifth years of his Majesty's reign respectively, to deliver to the commissioners of stamps in *Great Britain* and *Ireland* respectively, or some distributor of stamps or other officer, on the day on which the same is published, or within a certain time afterwards, one of the newspapers, pamphlets, or papers so published, signed as in the said Acts is respectively directed: And whereas it is expedient that the same or similar provisions and regulations should extend and be applied to all pamphlets and papers, whether published periodically or not, and which shall contain any public news, intelligence, or occurrence, or any remarks or observations thereon, or upon any matter in church or state, and which shall not exceed two sheets as aforesaid, or which shall be published for sale at a less price than sixpence; be it therefore enacted, That from and after ten days after the passing of this Act, the printer or publisher of any pamphlet or other paper for sale, containing any public news, intelligence, or occurrences, or any remarks or observations thereon, or on any matter in church or state, shall, upon every day upon which the same shall be published, or within six days after, deliver to the commissioners of stamps for *Great Britain* and *Ireland* respectively, at their head offices, or to some distributor or officer to be appointed by them to receive the same, and whom they are hereby required to appoint for that purpose, one of the pamphlets or papers so published upon each such day, signed by the printer or publisher thereof, in his hand-writing, with his name and place of abode; and the same shall be carefully kept by the said commissioners, or such distributor or officer as aforesaid, in such manner as the said commissioners shall direct; and such printer or publisher shall be entitled to demand and receive from the commissioners, or such distributor or officer, the amount of the retail price of such pamphlet or paper so delivered; and in every case in which the printer and publisher of such pamphlet or paper shall neglect to deliver one such pamphlet or paper in the manner herein-before directed, such printer and publisher shall, for every such neglect respectively, forfeit and lose the sum of one hundred pounds.

Penalty for neglect of delivery of pamphlet or paper, 100*l.*

Commissioners refusing to take any pamphlet or paper, to give, if required, certificate of such refusal.

XIV. Provided always, and be it further enacted, That in case the said commissioners, or such distributor or officer aforesaid, shall refuse to receive or pay for any copy of such pamphlet or paper offered to be delivered to them or him as aforesaid, for or on account of the same not being within the true intent and meaning of this Act, such commissioners, distributor, or officer shall, if required so to do, give and deliver to such printer or publisher a certificate in writing that a copy of such pamphlet or paper had been by him duly offered to be delivered; and such printer or publisher shall thereupon be freed and discharged from any penalty for not having delivered such copy as aforesaid.

Penalty on persons selling papers not stamped, 20*l.*

XV. And be it further enacted, That if any person shall sell or expose to sale any pamphlet or other paper not being duly stamped, if required to be stamped, such person shall, for every such offence, forfeit the sum of twenty pounds.

Recognizance, in case of libel, to be of good behaviour, as well as to appear to answer.

XIV. And be it declared and enacted, That it shall be lawful for any of his Majesty's Courts of Record at *Westminster* or *Dublin*, or of Great Session in *Wales*, or any judge thereof respectively, or for any court of quarter or general sessions of the peace, or for any justice of the peace before whom any person charged with having printed or published any blasphemous, seditious, or malicious libel, shall be brought for the purpose of giving bail upon such charge, to make it a part of the condition of the recognizance to be entered into by such person and his or her bail, that the person so charged shall be of good behaviour during the continuance of such recognizance.

Recovery of penalties.

XVII. And be it further enacted, That all fines, penalties, and forfeitures by this Act imposed, shall be recovered by action of debt, bill, plaint, or information in any of his Majesty's Courts of Record at *Westminster* or *Dublin*, or the Courts of Great Session in the principality of *Wales*, or the Courts of the counties palatine of *Chester*, *Lancaster*, and *Durham*, or in the Court of Session or Court of Exchequer in *Scotland*, (as the case shall require), wherein no essoign, privilege, protection, wager of law, or more than one imparlance shall be allowed; or before any two justices of the

peace of the county, riding, stewartry, city, or place where the offence shall be committed: Provided always, that no larger amount in the whole than one hundred pounds shall be recoverable or recovered before any justices of the peace, for any such penalties incurred in any one day; any thing in this Act, or any other Acts of Parliament contained to the contrary notwithstanding.

Two or more justices to determine offences;

XVIII. And be it further enacted, That it shall be lawful for any two or more justices of the peace, in all cases in which they are authorized to hear and determine any offence or offences which shall be committed against this Act, or any other Act or Acts of Parliament which are by this Act required to be construed therewith as part thereof, upon information exhibited or complaint made in that behalf, within three months after any such offence committed, to summon the party accused, and also the witnesses on either side; and upon the appearance, or contempt of the party accused in not appearing, to proceed to the examination of the witness or witnesses upon oath (which oath they are hereby empowered to administer), and to give judgment for the penalty or penalties incurred; and in case the party shall not immediately pay the said penalty or penalties, to commit the offender to prison, there to remain for any time not exceeding six months, unless such pecuniary penalty or penalties shall be sooner paid and satisfied; and if any party shall find himself or herself aggrieved by the judgment of any such justices, then he, she, or they may, upon giving security to the amount or value of the penalty or penalties adjudged, together with such costs as may be awarded in case such judgment shall be affirmed, appeal to the justices of the peace at the next quarter or general sessions of the peace for the county, riding, division, or place wherein such offence shall be committed, who are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the same; and in case the judgment shall be affirmed, it shall be lawful for such justices to order the person or persons making such appeal, to pay such costs occasioned by such appeal, as to them shall seem meet: Provided nevertheless, that it shall and may be lawful for the said respective justices, where they shall see cause, to mitigate or lessen any such penalty or penalties, in such manner as they in their discretion shall think fit; the reasonable costs and charges of the officers or informers being always allowed over and above such mitigation; and so as such mitigation does not reduce the penalty to less than one fourth part thereof, over and above the said costs and charges.

May mitigate penalties.

Penalty on persons summoned as witnesses not appearing, &c.

XIX. And be it further enacted, That if any person shall be summoned as a witness to give evidence before such justices of the peace, touching any such offence, either on the part of the prosecutor or of the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such his or her neglect or refusal, to be allowed of by the justices before whom the prosecution shall be depending, or appearing shall refuse to give evidence, then every such person shall forfeit for every such offence any sum not exceeded twenty pounds, to be levied and paid in such manner and by such means as is in this Act directed as to other penalties.

Convictions to be made out in the following form.

XX. And be it further enacted, That the justices before whom any offender shall be convicted as aforesaid, shall cause the said conviction to be made out in the manner and form following, or in any other form of words to the like effect, *mutatis mutandis*; that is to say,

'County of } BE it remembered, That on
' at } *A. B.* of was duly convicted
' to wit. } before us, of his Majesty's justices of the peace for
' in pursuance of an Act passed in the sixtieth year of
' the reign of his present Majesty, intituled *An Act* [*Title of this Act*]; for
' that the said *A. B.* on the day of now last past, did
' [*here state the offence as the case may happen to be*] contrary to the form
' of the statute in that case made and provided; for which offence we do
' adjudge that the said *A. B.* hath forfeited the sum of ; and
' [*if the justices mitigate the penalty*] which sum of we do here-
' by mitigate to the sum of . Given under our hands and seals,
' this day of

No. XI. 60 Geo. III. & 1 Geo. IV. c. 9.

XXI. And be it further enacted, That no order or conviction made in pursuance of this Act by any justices of the peace, shall be removed by certiorari, advocation, or suspension into any Court whatever; and that no writ of certiorari, advocation, or suspension shall supersede execution or other proceedings upon any such order or conviction, but that execution and other proceedings shall be had thereupon, any such writ or writs or allowance thereof notwithstanding.

Order or conviction of justices not to be removed into any Court, or the execution superseded.

XXII. And be further enacted, That it shall not be lawful for any person or persons whatsoever to commence, prosecute, enter, or file, or cause or procure to be commenced, prosecuted, entered, or filed, any action, bill, plaint, or information in any of his Majesty's courts, or before any justice or justices of the peace, against any person or persons, for the recovery of any fine, penalty, or forfeiture made or incurred by virtue of this Act, unless the same be commenced, prosecuted, entered, or filed in the name of his Majesty's Attorney General in that part of *Great Britain*, called *England*, or in the name of his Majesty's Attorney General in *Ireland*, or his Majesty's Advocate for *Scotland* (as the case may be respectively), or in the name of the solicitor or some other officer of his Majesty's stamp duties in that part of *Great Britain* called *England*, or in *Scotland* or *Ireland* respectively; and if any action, bill, plaint, or information shall be commenced, prosecuted, entered, or filed in the name or names of any other person or persons than is or are in that behalf before mentioned, the same and every proceeding thereupon had, are hereby declared, and the same shall be null and void to all intents and purposes.

No actions for penalties shall be commenced but in the name of the Attorney General in England and Ireland, and Advocate for Scotland, or some officer of the stamp duties.

XXIII. And be it further enacted, That for the better and more effectually levying and collecting the said duties, the same shall be under the government, care, and management of the commissioners for the time being appointed in *Great Britain* and *Ireland* respectively, to manage the duties on stamped vellum, parchment, and paper; who, or the major part of them, in *Great Britain* and *Ireland* respectively, are hereby required and empowered to do all other things necessary to be done for putting this Act into execution, with relation to the said duties hereby granted, in the like and in as full and ample a manner as they or the major part of them were authorized to put in execution any law or laws concerning stamped vellum, parchment, and paper.

Duties to be under the management of the commissioners of stamps.

XXIV. And be it further enacted, That the said duties shall be and are hereby made payable to his Majesty, his heirs and successors; and the said duties, and the several allowances, discounts, and sums of money, for or in respect of the same, shall and may be respectively raised, levied, collected, answered, paid, recovered, adjudged, accounted for, and applied and appropriated, mitigated and allowed, in such and the like manner, and in or by any or either of the general or special ways, means or methods, by which the duties upon newspapers, and discounts and allowances in respect thereof, under the management of the said commissioners of stamped vellum, parchment, or paper, are or may be raised, levied, collected, answered, paid, recovered, adjudged, mitigated, and allowed; and the several persons, and also all such pamphlets and papers, of what nature or kind soever, by this Act made liable to the payment of duty, or entitled to any discount or allowance, shall be and the same are hereby made subject and liable to all and every the conditions, regulations, rules, and restrictions, to which such persons and newspapers are generally or specially subject and liable by any Act or Acts of Parliament in force before the passing of this Act; and all and every pain, penalty, fine, or forfeiture for any offence whatever committed against or in breach of any Act or Acts of Parliament now in force for securing the duties under the management of the said commissioners of stamped vellum, parchment, and paper, upon newspapers, or for the regulation or improvement of the said duties, and the several clauses, powers, provisions, directions, matters, and things therein contained, shall (except as the same or any of them are by this Act altered or repealed) and are hereby directed and declared to extend to, and shall be respectively applied, practised, and put in execution for and in respect of the several duties charged, imposed, and allowed, in as full and ample a manner, to all intents and purposes whatsoever, as if all and every the said clauses, provi-

Duties and discounts to be paid and allowed as former duties and discounts; and provisions of former Acts to extend to this Act.

sions, powers, restrictions, directions, fines, pains, penalties, or forfeitures, matters and things, were particularly repeated and re-enacted in the body of this Act.

XXV. And be it further enacted, That the monies arising from the duties hereby granted shall be paid into the receipt of the Exchequer at *Westminster* and *Dublin* respectively, and shall be carried to and made part of the consolidated fund of the united kingdom of *Great Britain* and *Ireland*.

Application of duties.

XXVI. Provided always, and be it further enacted, That nothing in this Act shall extend to Acts of Parliament, proclamations, orders of council, forms of prayer and thanksgiving, and acts of state, ordered to be printed by his Majesty, his heirs or successors, or his or their sufficient and authorized officer; or to any printed votes or other matters by order of either House of Parliament; or to books commonly used in the schools of *Great Britain* or *Ireland*, or books or papers containing only matters of devotion, piety, or charity; or daily accounts; or bills of goods imported and exported; or warrants or certificates for the delivery of goods; and the weekly bills of mortality; or to papers containing any lists of prices current, or of the state of the markets, or any account of the arrival, sailing, or other circumstances relating to merchant ships or vessels; or of any other matter wholly of a commercial nature; provided such bills, lists, or accounts do not contain any other matter than what hath been usually comprised therein; or to the printers or publishers of the foregoing matters, or any or either of them.

Exceptions.

XXVII. Provided also, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to charge with stamp duties any work reprinted and republished in parts or numbers, whether such work shall be wholly reprinted or shall be republished in an abridged form; provided that the work so reprinted and republished shall have been first printed and published two years at the least previous to such reprinting and republication, and provided the said work was not first published in parts or numbers.

Reprinted works republished in numbers not chargeable with stamp duty, &c.

XXVIII. And be it further enacted, That this Act may be altered, amended, or repealed, by any Act to be passed in the present session of Parliament.

Act may be repealed or altered this session.

Part V. Class XXII.

NUISANCES.

[No. I.] 9 Henry III. (Magna Charta) c. 23 *.—In what places Wears shall be put down.

* See this in Vol. VII.

[No. II.] 25 Edward III. stat. 4. c. 4.—New Wears shall be pulled down, and not repaired.

[No. III.] 45 Edward III. c. 2.—The Penalty of him that setteth up or enhanceth Wears.

[No. IV.] 12 Richard II. c. 13.—The Punishment of them

which cause Corruption near a City or great Town to corrupt the Air.

No. IV. 12 Rich. II. c. 13.

"ITEM, For that so much dung and filth of the garbage and intrails as "well of beasts killed, as of other corruptions, be cast and put in ditches, "rivers, and other waters, and also within many other places, within, about, "and nigh unto divers cities, boroughs, and towns of the realm, and "the suburbs of them, that the air there is greatly corrupt and infect, "and many maladies and other intolerable diseases do daily happen, as "well to the inhabitants, and those that are conversant in the said cities, "boroughs, towns and suburbs, as to other repairing and travelling thither, "to the great annoyance, damage, and peril of the inhabitants, dwellers, "repairers, and travellers aforesaid;" 'it is accorded and assented, That 'proclamation be made as well in the city of *London*, as in other cities, boroughs, and towns, through the realm of *England*, where it shall be needful, as well within franchises as without, that all they which do cast and 'lay all such annoyances, dung, garbages, intrails, and other ordure in 'ditches, rivers, waters, and other places aforesaid, shall cause them utterly 'to be removed, avoided, and carried away betwixt this and the feast of St. '*Michael* next ensuing after the end of this present Parliament, every one 'upon pain to lose and to forfeit to our Lord the King xx li. And that the 'mayors and bailiffs of every such city, borough or town, and also the bailiffs of franchises, shall compel the same to be done upon like pain. And 'if any feel himself grieved, that it be not done in the manner aforesaid, 'and will thereupon complain him to the chancellor after the said feast of 'St. *Michael*, he shall have a writ to make him of whom he will so complain to come into the Chancery, there to shew why the said penalty 'should not be levied of him, and if he cannot duly excuse himself, the 'said penalty shall be levied on him. And moreover proclamation shall be 'made, as well in the said city of *London*, as in other cities, boroughs and 'towns, as afore, that none, of what condition soever he be, cause to be 'cast or thrown from henceforth any such annoyance, garbage, dung, intrails, nor any other ordure into the ditches, rivers, waters, and other 'places aforesaid, and if any do, he shall be called by writ before the chancellor, at his suit that will complain; and if he be found guilty, he shall 'be punished after the discretion of the chancellor.'

Chief officers of towns shall compel offenders to redress their annoyances.

[No. V.] 1 Henry IV. c. 12.—A Confirmation of former Statutes touching pulling down of Wears.

[No. VI.] 4 Henry IV. c. 11. — Commissions shall be awarded to Justices, &c. to inquire of Wears, Kidels, &c.

[No. VII.] 1 Henry V. c. 2.—A Confirmation of former Statutes touching Wears, Mills, Kidels, &c.

[No. VIII.] 2 Henry VI. c. 15 *.—No Man shall fasten Nets to any Thing over Rivers.

* At length in vol. vii.

[No. IX.] 12 Edward IV. c. 7.—An Act for Wears and Fishgarthes.

[No. X.] 25 George II. c. 36.—An Act for the better preventing Thefts and Robberies, and for regulating Places

of Public Entertainment, and punishing Persons keeping disorderly Houses.

No. X. 25 Geo. II. c. 36.

'WHEREAS the advertising a reward with no questions asked, for the 'return of things which have been lost or stolen, is one great cause and 'encouragement of thefts and robberies;' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of *June* one thousand seven hundred and fifty-two, any person publickly advertising a reward with no questions asked, for the return of things which have been stolen or lost, or making use of any words in such publick advertisement, purporting that such reward shall be given or paid without seizing or making enquiry after the person producing such thing so stolen or lost, or promising or offering, in any such publick advertisement, to return to any pawnbroker, or other person, who may have brought or advanced money by way of loan upon such thing so stolen or lost the money so paid or advanced, or any other sum of money or reward for the return of such thing; and any person printing or publishing such advertisement, shall respectively forfeit the sum of fifty pounds for every such offence, to any person who will sue for the same.

The person advertising a reward for the return of things stolen or lost, &c.

and the printer to forfeit 50*l.*

II. 'And whereas the multitude of places of entertainment for the lower 'sort of people is another great cause of thefts and robberies, as they 'are thereby tempted to spend their small substance in riotous pleasures, and in consequence are put on unlawful methods of supplying their 'wants, and renewing their pleasures:' In order therefore to prevent the said temptation to thefts and robberies, and to correct as far as may be the habit of idleness, which is become too general over the whole kingdom, and is productive of much mischief and inconvenience; Be it enacted by the authority aforesaid, That from and after the first day of *December* one thousand seven hundred and fifty-two, any house, room, garden, or other place kept for publick dancing, musick, or other publick entertainment of the like kind, in the cities of *London* and *Westminster*, or within twenty miles thereof, without a licence had for that purpose, from the last preceding *Michaelmas* quarter sessions of the peace, to be holden for the county, city, riding, liberty or division in which such house, room, garden, or other place is situate (who are hereby authorized and impowered to grant such licences as they in their discretion shall think proper) signified under the hands and seals of four or more of the justices there assembled, shall be deemed a disorderly house or place: And every such licence shall be signed and sealed by the said justices in open court, and afterwards be publickly read by the clerk of the peace, together with the names of the justices subscribing the same; and no such licence shall be granted at any adjourned sessions; nor shall any fee or reward be taken for any such licence: And it shall and may be lawful to and for any constable, or other person, being thereunto authorized, by warrant under the hand and seal of one or more of his Majesty's justices of the peace of the county, city, riding, division or liberty where such house or place shall be situate, to enter such house or place, and to seize every person who shall be found therein, in order that they may be dealt with according to law: And every person keeping such house, room, garden, or other place, without such licence as aforesaid, shall forfeit the sum of one hundred pounds to such person as will sue for the same; and be otherwise punishable as the law directs in cases of disorderly houses.

Unlicensed places of entertainment deemed disorderly houses.

Constables may seize persons found therein.

Persons keeping the same to forfeit 100*l.*

III. Provided always, and it is hereby further enacted by the authority aforesaid, That in order to give publick notice what places are licensed pursuant to this Act, there shall be affixed and kept up in some notorious place over the door or entrance of every such house, room, garden, or other place, kept for any of the said purposes, and so licensed as aforesaid, an inscription in large capital letters, in the words following; *videlicet*, LICENSED PURSUANT TO ACT OF PARLIAMENT OF THE TWENTY-FIFTH OF KING GEORGE THE SECOND; and that no such house, room, garden, or other place, kept for any of the said purposes, although

Licensed places to have an inscription over them,

and not to be opened before 5 in the evening.

No. X. 25 Geo. II. c. 36.

licensed as aforesaid, shall be open for any of the said purposes before the hour of five in the afternoon; and that the affixing and keeping up of such inscription as aforesaid, and the said limitation or restriction, in point of time, shall be inserted in, and made conditions of, every such license; and in case of any breach of either of the said conditions, such licence shall be forfeited, and shall be revoked by the justices of peace in their next general or quarter sessions, and shall not be renewed; nor shall any new licence be granted to the same person or persons, or any other person on his or their or any of their behalf, or for their use or benefit, directly or indirectly, for keeping any such house, room, garden, or other place, for any of the purposes aforesaid.

On breach of either of the conditions the licence to be revoked.

Places licensed by the Crown or lord chamberlain excepted.

IV. Provided always, That nothing in this Act contained shall extend or be construed to extend to the theatres royal in *Drury-lane* and *Covent-garden*, or the theatre commonly called *The King's Theatre* in the *Haymarket*, or any of them; nor to such performances and publick entertainments as are or shall be lawfully exercised and carried on under or by virtue of letters patents, or licence of the crown, or the licence of the lord chamberlain of his Majesty's household; any thing herein contained notwithstanding.

Constable's duty upon notice of persons keeping a bawdy-house, gaming-house, &c.

V. And in order to encourage prosecutions against persons keeping bawdy-houses, gaming-houses or other disorderly houses, Be it enacted by the authority aforesaid, That if any two inhabitants of any parish or place, paying scot, and bearing lot therein, do give notice in writing to any constable (or other peace officer of the like nature, where there is no constable) of such parish or place, of any person keeping a bawdy-house, gaming-house, or any other disorderly house, in such parish or place, the constable, or such officer as aforesaid, so receiving such notice, shall forthwith go with such inhabitants to one of his Majesty's justices of the peace of the county, city, riding, division or liberty in which such parish or place does lie; and shall, upon such inhabitants making oath before such justice, that they do believe the contents of such notice to be true, and entering into a recognizance in the penal sum of twenty pounds each, to give or produce material evidence against such person for such offence, enter into a recognizance in the penal sum of thirty pounds, to prosecute with effect such person for such offence at the next general or quarter-session of the peace, or at the next assizes to be holden for the county in which such parish or place does lie, as to the said justice shall seem meet; and such constable or other officer shall be allowed all the reasonable expences of such prosecution, to be ascertained by any two justices of the peace of the county, city, riding, division or liberty where the offence shall have been committed, and shall be paid the same by the overseers of the poor of such parish or place; and in case such person shall be convicted of such offence, the overseers of the poor of such parish or place shall forthwith pay the sum of ten pounds to each of such inhabitants; and in case such overseers shall neglect or refuse to pay to such constable or other officer such expences of the prosecution as aforesaid, or shall neglect or refuse to pay upon demand, the said sums of ten pounds and ten pounds, such overseers and each of them, shall forfeit to the person intitled to the same, double the sum so refused or neglected to be paid (1).

The charges of prosecution,

and 10*l.* on conviction to each of the two inhabitants, to be paid by the overseers, on penalty of forfeiting double.

Person keeping such bawdy-house, &c. to be bound over.

VI. Provided always, and be enacted by the authority aforesaid, That upon such constable or other officer entering into such recognizance to prosecute as aforesaid, the said justice of the peace shall forthwith make out his warrant to bring the person so accused of keeping a bawdy-house, gaming-house or other disorderly house before him, and shall bind him or her over to appear at such general or quarter-session or assizes, there to answer to such bill of indictment as shall be found against him or her for such offence; and such justice shall and may, if in his discretion he thinks fit, likewise demand and take security for such person's good behaviour in the mean time, and until such indictment shall be found, heard and determined, or be returned by the grand jury not to be a true bill.

Constable neg-

VII. Provided also, That in case such constable shall neglect or refuse,

(1) Vide Clarke *v.* Rice, 1 B. & A. 694.

No. X.
25 Geo. II. c. 36.

upon such notice, to go before any justice of the peace, or to enter into such recognizance, or shall be wilfully negligent in carrying on the said prosecution, he shall for every such offence forfeit the sum of twenty pounds to each of such inhabitants so giving notice as aforesaid.

VIII. 'And whereas, by reason of the many subtle and crafty contrivances of persons keeping bawdy-houses, gaming-houses or other disorderly houses, it is difficult to prove who is the real owner or keeper thereof, by which means many notorious offenders have escaped punishment;' Be it enacted by the authority aforesaid, That any person who shall at any time hereafter appear, act or behave him or herself as master or mistress, or as the person having the care, government or management of any bawdy-house, gaming-house or other disorderly house, shall be deemed and taken to be the keeper thereof, and shall be liable to be prosecuted and punished as such, notwithstanding he or she shall not in fact be the real owner or keeper thereof.

lecting his duty forfeits 20*l.*

Who shall be deemed the keeper of such bawdy-house, &c.

IX. Provided nevertheless, That upon any such prosecution against any person for keeping a bawdy-house, gaming-house or other disorderly house, any person may give evidence against the defendant or on behalf of the defendant in such prosecution, notwithstanding his or her being an inhabitant or parishioner of the said parish or place, or having entered into such recognizance as aforesaid.

Evidence may be given by an inhabitant, &c.

X. And be it further enacted by the authority aforesaid, That no indictment which shall at any time after the said first day of *June* be preferred against any person for keeping a bawdy-house, gaming-house or other disorderly house, shall be removed by any writ of *certiorari* into any other court; but such indictment shall be heard, tried and finally determined, at the same general or quarter-session or assizes, where such indictment shall have been preferred (unless the court shall think proper, upon cause shewn, to adjourn the same) any such writ or allowance thereof notwithstanding (1).

Indictment not removeable by certiorari.

XI. 'And whereas many persons are deterred from prosecuting persons 'guilty of felony, upon account of the expence attending such prosecution, 'which is another great cause and encouragement of thefts and robberies;' In order therefore to encourage the bringing offenders to justice, Be it enacted by the authority aforesaid, That it shall and may be in the power of the court, before whom any person has been tried and convicted of any grand or petit larceny, or other felony, at the prayer of the prosecutor, and on consideration of his circumstances, to order the treasurer of the county in which the offence shall have been committed, to pay unto such prosecutor such sum of money as to the said court shall seem reasonable, not exceeding the expences which it shall appear to the court the prosecutor was put unto in carrying on such prosecution, making him a reasonable allowance for his time and trouble therein; which order the clerk of assize, or clerk of the peace respectively, is hereby directed and required forthwith to make out and to deliver unto such prosecutor, upon being paid for the same the sum of one shilling, and no more; and the treasurer of the county is hereby authorized and required, upon sight of such order, forthwith to pay to such prosecutor, or other person authorized to receive the same, such sum of money as aforesaid, and shall be allowed the same in his accounts.

In prosecutions for felony; court may make orders for payment of the prosecutor's expences;

Clerk's fee for such order.

County treasurer to pay the order.

XII. And for the better discovering and bringing to justice thieves, robbers and other persons maintaining themselves by pilfering and defrauding mankind; Be it enacted by the authority aforesaid, That it shall and may be lawful to and for any two or more of his Majesty's justices of the peace, in any county, city or liberty, in case any person apprehended upon any general privy search, or by virtue of any special warrant, shall be charged before them with being a rogue and vagabond, or an idle and disorderly

Justices may examine on oath rogues, vagabonds and other disorderly persons;

(1) The general words of the stat. 25 Geo. II. c. 36. s. 10. that no indictment for keeping a disorderly house shall be removed by *certiorari*, do not restrain the crown from removing the indictment by *certiorari*; there being nothing in the Act to shew that the legislature intended that the crown should be bound by it. Rex *v.* Davies, 5 T. R. 626.

No. X. 25 Geo. II. c. 36.

person, or with suspicion of felony, (although no direct proof be then made thereof) to examine such person upon oath, not only as to the parish or place where he was last legally settled, but also as to his means of livelihood; the substance of which examination shall be put into writing, and be subscribed or signed by the person so examined; and the said justices shall likewise sign the same, and transmit it to the next general or quarter-sessions of the peace to be holden for the same county, city or liberty, there to be filed, and to be kept on record: And if such person shall not make it appear to such justices, that he has a lawful way of getting his livelihood, or shall not procure some responsible housekeeper to appear to his character, and to give security for his appearance before such justices at some other day to be fixed for that purpose (in case the same shall be required) to commit such person to some prison or house of correction, for any time not exceeding six days; and in the mean time to order the overseers of the poor, or one of them, of the parish or place in which such person shall be apprehended, to insert an advertisement in some publick paper, describing such suspicious person, and any thing or things which shall have been found upon him, or in his custody, and which he shall be suspected not to have come honestly by, and mentioning the place to which such person is committed, and specifying the time and place when and where such person is to be again brought before them to be re-examined; and if no accusation shall be then laid against him, then such person shall be discharged, or otherwise dealt with according to law.

the examination to be transmitted to the sessions.

Persons not giving a satisfactory account, &c. to be committed,

and an advertisement to be published, describing his person, and the things found on him.

Recovery of forfeitures.

XIII. And be it further enacted by the authority aforesaid, That any person intitled to any of the forfeitures by this Act imposed, may sue for the same by action of debt, in any of his Majesty's Courts of Record at *Westminster*, in which it shall be sufficient to declare, That the defendant is indebted to the plaintiff in the sum of being forfeited by an Act, intituled, *An Act for the better preventing Thefts and Robberies, and for regulating Places of publick Entertainment, and punishing Persons keeping disorderly Houses;* and the plaintiff, if he recover in any such action, shall have his full costs.

Costs.

Limitation of actions.

XIV. Provided, That no action shall be brought by virtue of this Act unless the same shall be commenced within the space of six calendar months after the offence committed.

Act to be in force for three years.

XV. And be it further enacted by the authority aforesaid, That this Act shall continue in force until the expiration of three years, to be computed from the first day of this Session of Parliament; and from thence to the end of the then next Session of Parliament, and no longer. [Made perpetual 28 Geo. 2. c. 10.]

Part V.—Class XXIII.

MAINTENANCE—CHAMPERTY—LIVERIES.

[No. I.] 3 Edward I. c. 25.—None shall commit Champerty, to have Part of the Thing in Question.

[Inserted Pt. III. Cl. X. No. I.]

[No. II.] 3 Edward I. c. 28.—Clerks shall not commit Maintenance *.

* The offences of maintenance and champerty are often confounded, and indiscriminately used; but champerty signifies a bargain with the plaintiff or defendant in any

'AND that none of the King's clerks, nor of any justicer, from hence-forth shall receive the presentment of any church, for the which any plea or debate is in the King's Court, without special licence of the King; and that the King forbiddeth, upon pain to lose the church and his service: And that no clerk of any justicer, or sheriff, take part in any quarrels of matters depending in the King's Court, nor shall work any fraud, whereby common right may be delayed or disturbed; and if any so do, he shall be punished by the pain aforesaid, or more grievously, if the trespass do so require.'

No. II. 3 Edw. I. c. 28.

There shall be no maintenance of any matter pending in the King's Court.

suit, to have part of the land, debt, or other thing on suit, if the party that undertakes it prevails therein. Maintenance is the unlawful upholding a cause or person, or the buying of pretended rights to lands, &c. Every champerty, as Lord Coke observes, is maintenance; but every maintenance is not champerty; for champerty is but a species of maintenance, which is the genus.—*Note to Runnington's Statutes.*

[No. III.] 3 Edward I. c. 33.—No Maintainers of Quarrels shall be suffered.

[No. IV.] 13 Edward I. st. 1. c. 49.—The Penalty for buying the title of Land depending in Suit. A remedy for Suits where the Law faileth.

[Inserted Pt. III. Cl. X. No. 2.]

[No. V.] 28 Edward I. st. 3. c. 11.—Nothing shall be taken to maintain any Matter in Suit.

[No. VI.] 33 Edward I. st. 2.—Who be Conspirators, and who be Champertors.

[See the next Class.]

[No. VII.] 33 Edward I. st. 3.—The Punishment of such as commit Champerty.

No. VII. 33 Edw. I. st. 3.

"WHERE it is contained in our statute, that none of our Court shall take any plea to champerty by craft nor by engine; and that no pleaders, apprentices, attornies, stewards of great men, bailiffs, nor any other of the realm, shall take for maintenance, or the like bargain, any manner of suit or plea against other, whereby all the realm is much grieved, and both rich and poor troubled in divers manners;" 'it is provided by a common accord, That all such as from henceforth shall be attainted of such emprises, suits, or bargains, and such as consent thereunto, shall have imprisonment of three years, and shall make fine at the King's pleasure. Given at *Berwick* upon *Tweed* the twentieth year of the reign of King *Edward*. Our Lord the King, at the information of *Gilbert Rowbery*, clerk of his council, hath commanded, That whosoever will complain himself of conspirators, inventors, and maintainors of false quarrels, and partakers thereof, and brokers of debates, that *Gilbert Thornton* shall cause them to be attached by his writ, that they be before our Sovereign Lord the King, to answer unto the plaintiffs by this writ following:'

Writ of conspiracy.

II. Rex vic' salutem. Præcipimus tibi, quod si A. de G. fecerit te securum de clamore suo prosequendo tunc pone per vadium et salvos plegios G. de C. quod sit coram nobis in octabis sancti Joh' Baptistæ, ubicunque tunc fuerimus in Anglia, ad respondendum prædicto A. de placito conspirationis et transgressionis, secundum ordinationem nostram nuper inde provisam, sicut idem A. rationabiliter monstrare poterit, quod ei inde respondere debeat, et habeas ibi nomina plegiorum et hoc breve. Teste, &c.

[No. VIII.] 1 Edward III. st. 2. c. 14.—None shall commit Maintenance.

[No. IX.] 4 Edward III. c. 11.—Justices of Assizes, &c. shall enquire of Maintainers, Conspirators, and Champertors.

No. IX. 4 Edw. III. c. 11.

"ITEM, Where in times past divers people of the realm, as well great "men as other, have made alliances, confederacies, and conspiracies, to "maintain parties, pleas, and quarrels, whereby divers have been wrong- "fully disinherited, and some ransomed and destroyed, and some for fear "to be maimed and beaten, durst not sue for their right, nor complain, nor "the jurors of inquests give their verdicts, to the great hurt of the peo- "ple, and slander of the law, and common right;" 'it is accorded,' &c.

[No. X.] 20 Edward III. c. 4.—None shall maintain any Quarrels but their own.

[No. XI.] 20 Edward III. c. 5.—Lords and Great Men shall put those out of their Services, which be Mainteners of Quarrels.

[No. XII.] 1 Richard II. c. 4.—The several Penalties of several Persons that do maintain Quarrels.

[No. XIII.] 16 Richard II. c. 4.—Who only may wear another's Livery.

[No. XIV.] 20 Richard II. c. 2.—Who only may wear another's Livery.

[No. XV.] 1 Henry IV. c. 7.—The Penalty for unlawful giving or wearing of Liveries. Who may wear the King's Liveries, and in what Places. To what Persons only Liveries may be given.

[No. XVI.] 2 Henry IV. c. 21.—No Lord shall give any Livery or Sign to any Knight, Esquire, or Yeoman.

[No. XVII.] 7 Henry IV. c. 14.—The statute of 1 Hen. IV. c. 7. and 1 Rich. II. c. 7. touching the giving and taking of Liveries, confirmed. No Congregation or Company shall make any Livery of Cloth or Hats.

[No. XVIII.] 13 Henry IV. c. 3.—A Confirmation of several Statutes of 1 Hen. IV. cap. 7, 7 Hen. IV. cap. 12, and 1 Rich. II. cap. 7. touching giving and taking of Liveries.

[No. XIX.] 32 Henry VIII. c. 9.—The Bill of Bracery and buying of Titles.

[Inserted Pt. III. Cl. X. No. 3.]

PART V. — CLASS XXIV.

MISCELLANEOUS OFFENCES.*

[No. I.] 3 Edward I. c. 26.—None of the King's Officers shall commit Extortion.

[No. II.] 3 Edward I. c. 27.—Clerks of Officers shall not commit Extortion.

[No. III.] 28 Edward I. st. 3. c. 10.—The Remedy against Conspirators, false Informers, and Embracers of Jurors.

No. III. 28 Edw. I. st. 3. c. 10.

'IN right of conspirators, false informers and evil procurors of dozens, assises, inquests and juries, the King hath provided remedy for the plaintiffs by a writ out of the Chancery. And notwithstanding, he willeth that his justices of the one bench and of the other, and justices assigned to take assises, when they come into the country to do their office, shall, upon every plaint made unto them, award inquests, thereupon without writ, and shall do right unto the plaintiffs without delay.

[No. IV.] 33 Edward I. st. 2.—Who be Conspirators, and who be Champertors.

No. IV. 33 Edw. I. st. 2.

'CONSPIRATORS be they that do confeder or bind themselves by oath, covenant, or other alliance, that every of them shall aid and bear the other falsely and maliciously to indite, or cause to indite, or falsely to move or maintain pleas; and also such as cause children within age to appeal men of felony, whereby they are imprisoned and sore grieved; and such as retain men in the country with liveries or fees to maintain their malicious enterprises; and this extendeth as well to the takers, as to the givers. And stewards and bailiffs of great lords, which by their seignory, office, or power, undertake to bear or maintain quarrels, pleas, or debates, that concern other parties than such as touch the estate of their lords or themselves. This ordnance and final definition of conspirators was made and accorded by the King and his council in his Parliament the thirty-third year of his reign. And it was further ordained, That justices assigned to the hearing and determining of felonies and trespasses, should have the transcript hereof.'

[No. V.] 5 Edward III. c. 10.—The punishment of a Juror that is Ambidexter, and taketh Money.

* Most of the statutes mentioned in this class are at present of no practical importance, or otherwise are inserted in preceeding parts of the Work; and the titles, and in a few instances the statutes themselves, are only inserted for the sake of giving a general intimation of the course and progress of the law upon the subjects mentioned.

[No. VI.] 10 Edward III. st. 31.—Statutum de Cibariis utendis, editum apud Nottingham.

Ex Rot. in Turr. Lond. *m.* 24. *D.*

No. VI. 10 Edw. III. st. 31.

PUR ce qe avant ces heures par outrajouses et trop des maneres des cous-touses viandes qe les gentz du roialme unt usez plus qe nul part aillours moultz dez mescheefs sont avenuz as gentz du dit roialme. Car les grantz par tieles outrages ont estez moult grevez et les menes gentz qe safforcent solement de contrefaire les grantz en tiel manere des viandes sont moult empovres dont ils nont poair daider as eux meismes ne a lour liege seignur en temps de busoigne sicome ils deivent. Et autres assez des mals sont avenuz auxibien as almes come as corps et les susdites choses et grevances proposez et monstrez devant nostre seignur le roy en son grand conseil tenu a Notyngh' Lundy proschein apres la feste de seint Matheu lapostle lan de son regne disme supplie feust par les prelatz countes barons et les communaltez de son roialme illoeqes assemblez per ses mandementz qil vousist sur ce pur profit de son poeple ordener remede covenable nostre dit seignur le roi desirant commune profit auxibien de grantz come deson commune people de son roialme et considerantz les mals grevances et meschiefs avanditz par commune assent des seigneurs et communes susditz qe illoeqes estient a loneur de dieu et lamendement de lestat de la commune de son roialme ad ordene qe nul de quel estat ou condition qil soit se face servir en son houstel ne nulle part aillour a diner manger ne souper ne nul autre temps forsqe de deux cours et chescun mees de deux maners des viandes a plus soient ils des chares ou de pesshons ove communes pottages sauns sawes ou autre manere de viande et si nul home voet avoir sawes pur meese les eit si qils ne soient faitz de grantz coustes et chares ou pesson y deivent estre mys ne soit mys forsqe deux maners ou de chares ou de pesshon a plus et estoise en lieu de meese forspris le plus grantz festes del an cest assavoir la veile et le jour de noel le jour de Seint Estiephne le jour del an renoef les jours de la Tiphaynei et de la Purification de nostre Dame et la veile et le jour de pasche et lendemain del dit jour de pasque et le jour de la Pentecost et lendemain le jour de la trinitee le jour de la nativitee de Seint Johan le jour de Seint Pier et de Seint Paul les jours del assumption et la nativitee nostre Dame et le jour de tout seintz queux festes et jours chescun se puisse servir de trois cours ou plus en la manere avantdit. Et voet nostre seignur le roi et commande par assent avantdit qe cestes ordenance et estatut commencent de tenir par tout le roialme le lundy proschein apres la feste de toutz seintz proschein avenir et soient criez en chescun conte et qe chescun de quel estat qil soit sanz nul frosprendre les avantditz ordenances et estatutz garde et tiegne en la forme et manere susditz sanz ajoustre ou fraude faire a yceles par cautele art ou engyn ou par interpretation des paroles ou queconqes autres colours quere sur la foy et ligeance qils deivent a nostre dit seignur le roi et a ses heirs Rois dEngleterre et sicome ils ayment le honour de Dieu et auxint le honur et profit du roi et profit du roialme avantdit et sur le peril qappent si nul soit trove fesant le contrare de chose qest fait par commune assent de touz et pur si graunt profit du roialme.

REX vic' ebor' salutem. Quedam ordinationem et statutum per nos in magno concilio nostro apud Notingham die lune prox' post festum sancti Michaelis archangeli prox' preterito convocato de assensu prelatorum comitum baronum et totius communitatis regni nostri ibidem existentium ad communem utilitatem tam prelatorum et magnatum quam populi ejusdem regni edita tibi mittimus sub sigillo nostro consignata mandantes quod ordinationem et statutum illa in pleno comitatu tuo ac in civitatibus burgis villis mercatoriis et aliis locis in balliva tua ubi expedire videris tam infra libertates quam extra legi et publice proclamari et quantum in te est firmiter observari facias. T. R. apud Aukland xv die Octobr'.

Per ipsum Regem.

[No. VII.] 11 Edward III. c. 2.—None shall wear any Cloth, but such as is made in *England*.

[No. VIII.] 11 Edward III. c. 3.—No Clothes made beyond the Seas shall be brought into the King's Dominions. No. VIII. 11 Edw. III. c. 3.

[No. IX.] 11 Edward III. c. 4.—Who only may wear Furs.

[No. X.] 25 Edward III. st. 4. c. 3.—The Penalty of him that doth forestall Wares, Merchandize, or Victual.

[No. XI.]—28 Edward III. c. 5.—No Iron shall be carried forth of the Realm.

[No. XII.] 34 Edward III. c. 8.—The Penalty of a Juror taking Reward to give his Verdict.

[No. XIII.] 37 Edward III. c. 5.—Merchants shall not ingross Merchandises to inhance the Prices of them, nor use but one Sort of Merchandise.

[No. XIV.] 37 Edward III. c. 8.—The Diet and Apparel of Servants.

[No. XV.] 37 Edward III. c. 9.—The Apparel of Handicraftsmen and Yeomen, and of their Wives and Children.

[No. XVI.] 37 Edward III. c. 10.—What Apparel Gentlemen under the Estate of Knights, and what Esquires of two hundred Mark Land, &c. may wear, and what their Wives and Children.

[No. XVII.] 37 Edward III. c. 11.—The Apparel of Merchants, Citizens, Burgesses, and Handicraftsmen.

[No. XVIII.] 37 Edward III. c. 12.—The Apparel of Knights which have Lands within the yearly Value of two hundred Marks, and of Knights and Ladies which have four hundred Mark Land.

[No. XIX.] 37 Edward III. c. 13.—The Apparel of several Sorts of Clerks.

[No. XX.] 37 Edward III. c. 14.—The Apparel of Ploughmen, and other of mean estate; and the Forfeitures of Offenders against this Ordinance.

[No. XXI.] 37 Edward III. c. 15.—Clothiers shall make

No. XXI. 37 Edw. III. c. 15.

Cloths sufficient of the foresaid Prices, so that this Statute for Default of such Cloths be in no wise infringed.

[No. XXII.] 38 Edward III. st. 1. c. 6.—A repeal of the Felony imposed by Stat. 27 *Ed.* 3. *Stat.* 2. *c.* 3. for transporting of Wooll, *&c.* by *Englishmen*; but the Forfeiture of Lands and Goods shall stand.

[No. XXIII.] 38 Edward III. st. 1. c. 9.—The Punishment of him, which proveth not his Suggestion made to the King.

[No. XXIV.] 38 Edward III. st. 1. c. 12.—The Punishment of a Juror taking Reward to give Verdict, and of Embraceors.

[No. XXV.] 8 Richard II. c. 4.*—The Penalty if a Judge or Clerk make a false Entry, rase a Roll, or change a Verdict.

* This at length, Pt. IV. Cl. I. No. 20.

[No. XXVI.] 5 Henry IV. c. 4.—It shall be Felony to use the Craft of Multiplication of Gold or Silver.

[No. XXVII.] 5 Henry IV. c. 6.—The Penalty for making an Assault upon any Servant of any Knight in Parliament.

[No. XXVIII.] 4 Henry V. c. 3.—No Man shall make any Pattens of Asp, upon Pain of an Hundred Shillings.

[No XXIX.] 3 Henry VI. c. 1.*—Masons shall not confederate themselves into Chapiters and Assemblies.

* At length, Vol. V.

[No. XXX.] 20 Henry VI. c. 11.—A Repeal of so much of the Statute of 2 Hen. V. *Stat.* 1 *cap.* 6. as making the breaking of Truce and Safe Conducts High Treason.

[No. XXXI.] 27 Henry VI. c. 5.—Certain Days whereon Fairs and Markets ought not to be kept.

[No. XXXII.] 1 Henry VIII. c. 14.—A Repeal of all former Statutes made against Excess of Apparel; and what Kind of Apparel Men of all Degrees and Callings are allowed, and what prohibited to wear.

[No. XXXIII.] 7 Henry VIII. c. 6.—An Act concerning Apparel.

[A repeal of the statute made *Anno* 6 *H.* VIII. *c.* 1. and of all other statutes

made for apparel before it. What kind of apparel temporal men of all degrees and estates are allowed, and what prohibited, to wear, and upon what penalties, and who shall have the forfeiture, and by what means they shall be recovered. No. XXXIII. 7 Hen. VIII. c. 6.

[No. XXXIV.] 24 Henry VIII. c. 3.—An Act for Flesh to be sold by Weight, and the Prises set down.

[Beef, pork, mutton and veal shall be sold by weight called *Haver-du-pois.* No person shall take for a pound of beef or pork above ob. nor for a pound of mutton or veal above ob. q. and less in those counties where they be sold for less.]

[No. XXXV.] 25 Henry VIII. c. 13.—Concerning the Number of Sheep one should keep.

[No. XXXVI.] 25 Henry VIII. c. 17.—An Act concerning shooting in Cross-bows and Hand-guns.

[Whosoever shall shoot in any hand-gun or cross-bow, or keep any in his house, except he has land, annuities or offices, to the yearly value of an hundred pounds, shall forfeit ten pounds for every offence;—(2) and a justice of the peace may commit the offender to the gaol until he hath paid the same forfeiture.—(3.) All former placards made to shoot in either of them shall be void.]

[No. XXXVII.] 32 Henry VIII. c. 10.—An Act for the Moderation of the Punishment of the Incontinency of Priests and Women offending with them.

[A repeal of the punishment by death of priests married or unmarried, and of women offending with them by incontinency, limited by the statute of 31 H. 8. c. 14. A priest offending by incontinency, and convict according to the laws mentioned in 31 H. 8. c. 14. shall the first time forfeit to the King all his goods, chattels, debts, and all his spiritual promotions, saving one; and being the second time convict, he shall forfeit all his goods, chattels, debts, and the issue and profits of all his lands, benefices and promotions; and being the third time convict, shall forfeit all his goods, debts, lands, benefices, &c. and be imprisoned during his life: And the woman, if married, shall be imprisoned during her life; but being unmarried, she shall, the first time she is convict, forfeit all her goods, chattels and debts; the second time, the moiety of the issues of her lands during her life; and the third time, the whole issues and profits of all her lands, &c. and shall be imprisoned during her life. [The stat. 31 H. 8. c. 14. and the laws of conviction therein mentioned being repealed by 1 Edw. 6. c. 12. this statute is obsolete.]

[No. XXXVIII.] 33 Henry VIII. c. 9.—The Bill for the maintaining Artillery, and the Debarring of unlawful Games.

[See Pt. VI. Cl. XX. No. 1.]

[No. XXXIX.] 33 Henry VIII. c. 14.—An Act concerning false Prophesies upon Declaration of Names, Arms or Badges.

[It shall be felony to declare any false prophecy upon occasion of arms, fields, letters, &c.]

[No. XL.] 34 and 35 Henry VIII. c. 6.—An Act for the true making of Pins.

[No person shall put to sale any pins, but only such as shall be double-headed, and have the heads soldered fast to the shank of the pin, well smoothed, the shank well shaven, the point well and round filed, cauted and sharpened.]

[No. XLI.] 37 Henry VIII. c. 13.—An Act repealing the Act made for Pins.

[No. XLII.] 2 and 3 Edward VI. c. 15.—The Bill of Conspiracies of Victuallers and Craftsmen.

[No. XLIII.] 3 and 4 Edward VI. c. 9.—An Act for the buying of raw Hides and Calves-Skins.

[No person shall buy any raw hides or calves' skins, to sell again untanned, upon pain to forfeit for every skin vj. s. viij. d. REP. 5 El. c. 8. and 1 Jac. I. c. 22.]

[No. XLIV.] 3 and 4 Edward VI. c. 15.—An Act against fond and fantastical Prophecies.

[The penalty for publishing any false prophecy upon occasion of arms, fields, &c. to the intent to make dissention, &c. shall be for the first offence, one year's imprisonment, and the forfeiture of x l. and for the second offence, the forfeiture of all his goods, and imprisonment during his life. EXP. 7 Ed. 6. c. 11. 33 H. 8. c. 14. 5 El. c. 15.]

[No. XLV.] 5 and 6 Edward VI. c. 14.—An Act against Regrators, Forestallers and Ingrossers.

[No. XLVI.] 5 and 6 Edward VI. c. 16.—Against Buying and Selling of Offices.

[Inserted Pt. III. Cl. IX.]

[No. XLVII.] 7 Edward VI. c. 5.—The Act to avoid the excessive Prices of Wine.

No. XLVII. 7 Edward VI. c. 5.

At what prices wines shall be sold, and at whose appointment the prices shall be set down. Repealed as to the price of wines by 1 Jac. 1. c. 25. § 43.

'FOR the avoiding of many inconveniences, much evil rule and common resort of misruled persons used and frequented in many taverns of late 'newly set up in very great number in back-lanes, corners and suspicious 'places within the city of *London*, and in divers other towns and villages 'within this realm:' Be it enacted by the authority of this present Parliament, That no person or persons whatsoever, inhabiting within any of the King's Majesty's dominions of *England* and *Wales*, shall after the feast of St. *Michael* the archangel next coming, utter by retail by small measure, that is to say, by gallon, or any other measure of greater or lesser quantity, any wines called *Gascoign*, *Guyon* or *French* wines, but after the rate of viij. d. the gallon at the most, by any manner of means, colour, engine or craft: nor any *Rochel* wines at greater prices or valuation than after the rate of iv. d. the gallon at the most: nor any other wine or wines at greater price or valuation than after the rate of xii. d. the gallon at the most; upon pain that every person doing the contrary shall forfeit for every such offence five pounds of lawful money of *England*.

[No. XLVIII.] 1 and 2 Philip and Mary, c. 3.—An Act against seditious Words and Rumours.

[See Vol. V. page 129 for this.]

[No. XLIX.] 1 Elizabeth, c. 6.—An Act for the Explanation of the Statute of seditious Words and Rumours.

[The penalty mentioned in the statute of 1 & 2 P. & M. c. 3. for speaking false slanderous news of the King or Queen, or for committing any of the offences expressed in the said Act, shall be expounded to extend to the Queen that now is, and to the heirs of her body. EXP.]

[No. L.] 1 Elizabeth, c. 10.—An Act that the carrying of Leather, Tallow or raw Hides, out of the realm for Merchandizes, shall be Felony.

[It shall be felony to convey, or procure to be conveyed, into any ship or other vessel, any leather tanned or untanned, or any salt or untanned hides, or any backs of sole-leather, or any tallow, to the intent to transport the same over the sea, to be sold by way of merchandize. REP. 18 Eliz. c. 9.]

[No. LI.] 1 Elizabeth, c. 15.—An Act that Timber shall not be felled to make Coals for burning of Iron.

[No. LII.] 5 Elizabeth, c. 15.—An Act against fond and fantastical Prophecies.

[No. LIII.] 5 Elizabeth, c. 20.—An Act for the Punishment of Vagabonds, calling themselves *Egyptians*.

[No. LIV.] 13 Elizabeth, c. 3.—An Act against Fugitives over the Sea.

[If any born within this realm, or made free denizen, hath departed or shall depart the realm without the Queen's licence under the great or privy seal, and shall not return again within six months after warning by proclamation, he shall forfeit to the Queen the profits of all his lands during his life, and also his goods and chattels. The like penalty he shall sustain, which having licence shall not return within six months after his licence expired. The offender shall have restitution upon submission. Fraudulent assurances made by fugitives of their lands and goods to deceive the Queen, shall be void. EXP. 5 R. 2. stat. 1. c. 1. 12 R. 2. c. 8. 14 El. c. 6.]

[No. LV.] 43 Elizabeth, c. 13.—An Act for the more peaceable Government of the Parts of *Cumberland*, *Northumberland*, *Westmorland*, and the Bishoprick of *Duresme*.

No. LV. 43 Elizabeth, c. 13.

'FORASMUCH as now of late years very many of her Majesty's subjects 'dwelling and inhabiting within the counties of *Cumberland*, *Northum-* 'berland, *Westmorland*, and the bishoprick of *Duresme*, have been taken, 'some forth of their own houses, and some in travelling by the highway, 'or otherwise, and carried out of the same counties, or to some other 'places within some of the said several counties, as prisoners, and kept 'barbarously and cruelly until they have been redeemed by great ransoms: 'And where now of late time there have been many incursions, roads, rob- 'beries, and burning and spoiling of towns, villages and houses within the 'said counties, that divers and sundry of her Majesty's loving subjects within 'the said counties, and the inhabitants of divers towns there, have been 'forced to pay a certain rate of money, corn, cattle or other considera-

Several outrageous misdemeanors committed in Cumberland, &c.

No. LV. 43 Elizabeth, c. 13.

'tion, commonly there called by the name of *black-mail*, unto divers and 'sundry inhabiting upon or near the borders, being men of name, and 'friended and allied with divers in those parts, who are commonly known 'to be great robbers and spoil-takers within the said counties, to the end 'thereby to be by them freed, protected and kept in safety from the danger 'of such as do usually rob and steal in those parts: By reason whereof, 'many of the inhabitants thereabouts being her Majesty's tenants, or other 'good subjects, are much impoverished, and theft and robbery much in-'creased, and the maintainers thereof greatly encouraged, and the service 'of those borders and frontiers much weakened and decayed, and divers 'towns thereabouts much dispeopled and laid waste, and her Majesty's 'own revenue greatly diminished: Which heinous and outrageous misde-'meanors there cannot so well by the ordinary officers of her Majesty in 'those parts be speedily prevented or suppressed, without further provision 'of law.

Carrying away or detaining any person against his will.

II. For remedy whereof, Be it enacted by the authority of this present Parliament, That whosoever shall at any time hereafter, without good and lawful warrant and authority, take any of her Majesty's subjects against his or their will or wills, and carry them out of the same counties, or to any other place within any of the said counties, or detain, force or imprison him or them as prisoners, or against his or their wills, to ransom them, or to make a prey or spoil of his or their person or goods, upon deadly feud or otherwise: Or whosoever shall be privy, consenting, aiding or assisting unto any such taking, detaining or carrying away, or procure the taking, detaining or carrying away, of any such person or persons prisoners as aforesaid: Or whosoever shall take, receive or carry, to the use of himself, or wittingly to the use of any other, any money, corn, cattle or other consideration, commonly called *black-mail*, for the protecting or defending of him or them, or his or their lands, tenements, goods or chattels, from such thefts, spoils and robberies, as is aforesaid: Or whosoever shall give any such money, corn, cattle or other consideration, called *black-mail*, for such protection as is aforesaid: Or shall wilfully and of malice burn or cause to be burned, or aid, procure or consent to the burning of any barn or stack of corn or grain, within any the said counties or places aforesaid; and shall be of the said several offences, or any of them indicted, and lawfully convicted, or shall stand mute, or shall challenge peremptorily above the number of twenty before the justices of assizes, justices of gaol delivery, justices of *Oyer* and *Terminer*, or justices of peace within any of the said counties, at some of their general sessions within some of the said counties to be holden; shall be reputed, adjudged and taken to be as felons, and shall suffer pain of death, without any benefit of clergy, sanctuary or abjuration, and shall forfeit as in case of felony.

Assenting or aiding to the taking or detaining of any person.

Receiving or carrying of black-mail.

Giving of black-mail for protection.

Burning of barns or stacks of corn.

The aforesaid offences shall be felony without clergy, &c.

III. 'And where divers and sundry persons within the said counties, 'being indicted and outlawed for murders, robberies, burglaries or other 'felonies, do notwithstanding ordinarily resort and come to markets, fairs 'and other publick assemblies and meetings, and do there converse, traffic 'and trade with other her Majesty's subjects, and are entertained, and 'have the privilege as men, obedient to laws, and yet do never yield them-'selves to trial of law, nor are apprehended; whereby the ordinary pro-'ceeding of law, and execution of justice in those parts are grown now into 'very great contempt:'

The names of all outlaws shall be declared to the sheriff.

IV. Be it therefore likewise further enacted, That every clerk of the peace within every of the said counties shall within the space of two months next after any outlawry within any of the said counties, deliver or cause to be delivered by writing under his hand, the names of all and every such as are or shall be hereafter outlawed within their several counties, to all and every the sheriffs of the said several counties: And all and every the said sheriffs shall proclaim and publish them to be outlawed in their several county-courts, and in the city of *Carlile*, the towns of *Penreth* and *Cockermouth*, in the county of *Cumberland*, and in the towns of *Appulby* and *Kendal*, in the county of *Westmorland*, and in the town of *Newcastle* upon *Tine*, in the county of the town of *Newcastle* upon *Tine*, and in the towns of *Morpeth*, *Alnewick* and *Hexam*, in the county of *Northumberland*, and in the city of *Duresme*, and towns of *Dar-*

Proclamation of the outlaws.

No. LV. 43 Eliz. c. 13.

lington, Bishop-Awckland and *Bernard Castle*, within the bishoprick of *Duresme*, and in the town of *Berwick* upon *Tweed;* and that the said sheriffs having notice, as aforesaid, shall from time to time, once in the month at their county-court, proclaim every of the said persons so outlawed, or hereafter to be outlawed, until they shall yield their bodies to prison: And likewise that the mayors, bailiffs, aldermen, and other chief officers, within the said several cities and towns, shall proclaim the like at every fair or fairs, to be kept within the said cities or towns, and once every six weeks at their markets.

The punishment for relieving or conferring with an outlaw for felony.

V. And be it also enacted, That if any person or persons inhabiting within any the said several counties shall wittingly and willingly have conference, talk, or in any sort shall relieve, entertain or confer with any such person or persons so outlawed, or hereafter to be outlawed, for any such murders, robberies, burglaries or other felonies, having knowledge of the same outlawries, by reason of the same proclamation or otherwise, and then shall not with convenient speed do his best endeavour to take and arrest any such person or persons so outlawed, or to be outlawed as is aforesaid, shall suffer imprisonment by the space of six months, without bail or mainprize, and be bound with two sufficient sureties for his good behaviour for the space of one year after, before he be enlarged of his imprisonment.

The enquiry and punishment of the offenders.

VI. And be it further enacted, That the justices of assise within any of the said counties, justices of gaol-delivery, justices of *Oyer* and *Terminer*, or justices of peace within any of the said counties, or at any of their general sessions, shall have power and authority by virtue of this Act, to enquire hear and determine of the offences and defaults of the said sheriffs, mayors, bailiffs, aldermen and other officers, and of the clerks of the peace within the said counties, and proceed against them by information or indictment, and punish them by fine, imprisonment or otherwise, as they shall think fit.

The authority of the lords wardens shall not be impeached.

VII. Provided always, That this Act nor any thing therein contained, shall not extend to abridge or impeach the jurisdiction or authority of any the lords wardens of any the marches of *England*, for and anenst *Scotland;* any thing in this present Act to the contrary notwithstanding.

[No. LVI.] 1 James I. c. 12.—An Act against Conjuration, Witchcraft, and dealing with evil and wicked Spirits.

[The penalty for practising of invocation or conjuration, &c. Conjuration or invocation, whereby any person is killed or lamed. Declaring by witchcraft where any thing is hidden, procuring unlawful love, &c. The second offence felony. No forfeiture of dower or inheritance. Trial of a peer of the realm. REP. 9 Geo. 2. c. 5.]

[No. LVII.] 3 James I. c. 21.—An Act to restrain the Abuses of Players.

No. LVII. 3 James I. c. 21.

The penalty of players on the stage, &c. profanely abusing the name of God.

FOR the preventing and avoiding of the great abuse of the holy name of God in stage-plays, enterludes, May-games, shews, and such like; Be it enacted by our Sovereign Lord the King's Majesty, and by the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, That if at any time or times after the end of this present Session of Parliament, any person or persons do or shall in any stage-play, enterlude, shew, May-game, or pageant, jestingly or profanely speak or use the holy name of God, or of Christ Jesus, or of the Holy Ghost, or of the Trinity, which are not to be spoken but with fear and reverence, shall forfeit for every such offence by him or them committed ten pounds; the one moiety thereof to the King's Majesty, his heirs and successors, the other moiety thereof to him or them that will sue for the same in any Court of Record at *Westminster*, wherein no essoin, protection, or wager of law shall be allowed.

No. LVIII. 21 James I. c. 3.

[No. LVIII.] 21 James I. c. 3.—An Act concerning Monopolies and Dispensations with Penal Laws, and the Forfeitures thereof.

[Inserted Pt. III. Class I. No. 1.]

[No. LIX.] 13 and 14 Charles II. c. 22.—An Act for preventing of Theft and Rapine upon the Northern Borders of *England*.

[No. LX.] 13 and 14 Charles II. c. 33.—An Act for preventing the frequent Abuses in printing seditious, treasonable and unlicensed Books and Pamphlets, and for regulating of Printing and Printing Presses.

[See 4 Bl. Com. 152, n.]

[No. LXI.] 10 William III. c. 2.—An Act to prevent the making or selling Buttons made of Cloth, Serge, Drugget, or other Stuffs.

[No. LXII.] 7 Annæ, c. 16.—An Act to prevent the laying of Wagers relating to the Public.

[No. LXIII.] 6 George I. c. 18.—An Act for better securing certain Powers and Privileges intended to be granted by his Majesty by two Charters for Assurances of Ships and Merchandizes at Sea, and for lending Money upon Bottomry; and for restraining several extravagant and unwarrantable Practices therein mentioned.

[Inserted Pt. III. Class III. No. 3.]

[No. LXIV.] 7 George I. c. 7.—An Act to preserve and encourage the Woollen and Silk Manufactures of this Kingdom, and for more effectual employing the Poor, by prohibiting the use and Wear of all printed, painted, stained or dyed Callicoes in Apparel, Household Stuff, Furniture, or otherwise, after the twenty-fifth Day of *December* one thousand seven hundred and twenty-two (except as therein is excepted).

[No. LXV.] 7 George I. c. 12.—An Act for employing the Manufactures and encouraging the Consumption of Raw Silk and Mohair Yarn, by prohibiting the Wearing of Buttons and Button-holes made of Cloth, Serge or other Stuffs.

[No. LXVI.] 3 George II. c. 5.—An Act to enable his Majesty to prohibit any Person or Persons, his Majesty's Subjects, or residing within this Kingdom, to advance or

lend any Sum or Sums of Money to any foreign Prince, State or Potentate, without Licence obtained from his Majesty under his Privy Seal, or some greater Authority. EXP.

No. LXVI. 3 Geo. II. c. 5.

[His Majesty may prohibit, by proclamation, the advancing money to foreign princes without licence. Not to restrain negotiating in foreign funds, &c. Prosecution to commence in twelve calendar months. Continuation for two years.]

[No. LXVII.] 9 George II. c. 5.—An Act to repeal the Statute made in the first Year of the Reign of King *James* the First, intituled, "An Act against Conjuration, Witchcraft, and dealing with evil and wicked Spirits," except so much thereof as repeals an Act of the fifth Year of the Reign of Queen *Elizabeth*, "Against Conjurations, Inchantments and Witchcrafts," and to repeal an Act passed in the Parliament of *Scotland* in the ninth Parliament of Queen *Mary*, intituled, "Anentis Witchcrafts," and for punishing such Persons as pretend to exercise or use any Kind of Witchcraft, Sorcery, Inchantment, or Conjuration.

[No. LXVIII.] 12 George III. c. 71.—An Act for repealing several Laws therein mentioned against Badgers, Engrossers, Forestallers, and Regraters, and for indemnifying Persons against Prosecutions for Offences committed against the said Acts.

[No. LXIX.] 26 George III. c. 71.—An Act for regulating Houses, and other Places, kept for the Purpose of slaughtering Horses.

[No. LXX] 3 George IV. c. 114.—An Act to provide for the more effectual Punishment of certain offences, by Imprisonment with hard Labour.—[5th *August* 1822.]

No. LXX. 3 Geo. IV. c. 114.

53 G. 3. c. 162.

WHEREAS by an Act passed in the fifty-third year of the reign of his late Majesty King *George* the Third, intituled *An Act to repeal a certain Provision respecting persons convicted of Felony without Benefit of Clergy, contained in an Act made in the Fifty-second Year of the Reign of His present Majesty, for the Erection of a Penitentiary House for the Confinement of Persons convicted within the City of* London *and County of* Middlesex, *and for making other Provisions in lieu thereof*, it was enacted, that it should and might be lawful for any court to pass upon any person who should be lawfully convicted before such court of felony with benefit of

No. LXX. 3 Geo. IV. c. 114.

clergy, or of any grand larceny, or of any petit larceny, the sentence of imprisonment to hard labour, either simply and alone, or in addition to any other sentence which such court might or should be authorized to pass upon any person lawfully convicted of any of the offences aforesaid, as to such court should seem fit; and such person should thereupon suffer such other sentence, and be moreover imprisoned and kept to hard labour or be simply imprisoned and kept to hard labour, in such place and for such time as such court should think fit to direct, not exceeding the time for which such courts might then imprison for such offences: And whereas it is expedient that the provisions of the said Act should be extended to certain aggravated misdemeanors, and offences below the degree of felony:

Persons convicted of the Offences herein mentioned, may be sentenced to hard Labour.

Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, whenever any person shall be convicted of any of the offences hereafter specified and set forth; (that is to say,) any assault with intent to commit felony; any attempt to commit felony; any riot; any misdemeanor for having received stolen goods knowing them to have been stolen; any assault upon a peace officer, or upon an officer of the customs or excise, or upon any other officer of the revenue, in the due discharge and execution of his or their respective duty or duties, or upon any person or persons acting in aid of any such officer or officers in the due discharge and execution of his or their respective duty or duties; any assault committed in pursuance of any conspiracy to raise the rate of wages; being an utterer of counterfeit money, knowing the same to be counterfeit; knowingly and designedly obtaining money, goods, wares, or merchandizes, bills, bonds, or other securities for money, by false pretences, with intent to cheat any person of the same; keeping a common gaming house, a common bawdy house, or a common ill-governed and disorderly house; wilful and corrupt perjury, or of subornation of perjury; having entered any open or inclosed ground with intent there illegally to destroy take or kill game or rabbits, or with intent to aid abet and assist any person or persons illegally to destroy take or kill game or rabbits, and having been there found at night armed with any offensive weapon; in each and every of the above cases, and whenever any person shall be convicted of any or either of the aforesaid offences, it shall and may be lawful for the court before which any such offender shall be convicted, or which by law is authorized to pass sentence upon any such offender, to award and order (if such court shall think fit) sentence of imprisonment with hard labour, for any term not exceeding the term for which such court may now imprison for such offences, either in addition to or in lieu of any other punishment which may be inflicted on any such offenders by any law in force before the passing of this Act; and every such offender shall thereupon suffer such sentence, in such place, and for such time as aforesaid, as such court shall think fit to direct.

[No. LXXI.] 4 George IV. c. 52.—An Act to alter and amend the Laws relating to the Interment of the Remains of any Person found *Felo de se*.—[8th *July* 1823.]

No. LXXI. 4 Geo. IV. c. 52.

WHEREAS it is expedient that the laws and usages relating to the interment of the remains of persons, against whom a finding of *felo de se* shall be had, should be altered and amended: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after

Remains of Persons against whom a Finding of Felo de se is had to be privately buried in the Parish Churchyard.

No. LXXI. 4 Geo. IV. c. 52.

the passing of this Act it shall not be lawful for any coroner, or other officer having authority to hold inquests, to issue any warrant or other process directing the interment of the remains of persons, against whom a finding of *felo de se* shall be had, in any public highway; but that such coroner or other officer shall give directions for the private interment of the remains of such person *felo de se*, without any stake being driven through the body of such person, in the churchyard or other burial ground of the parish or place in which the remains of such person might by the laws or custom of *England* be interred if the verdict of *felo de se* had not been found against such person; such interment to be made within twenty-four hours from the finding of the inquisition, and to take place between the hours of nine and twelve at night.

Rites of Christian Burial not to be performed; and former Laws and Usages not to be al-

II. Provided nevertheless, That nothing herein contained shall authorize the performing of any of the rites of christian burial on the interment of the remains of any such person as aforesaid; nor shall any thing hereinbefore contained be taken to alter the laws or usages relating to the burial of such persons, except so far as relates to the interment of such remains in such churchyard or burial ground, at such time and in such manner as aforesaid.

Part V.—Class XXV.

CRIMINAL PROCEEDINGS.

A—Surety of the Peace, and Apprehension of Offenders.
B—Examination—Commitment—Bail.
C—Indictments—Informations, and other Prosecutions.
D—Process—Outlawry.
E—Certiorari.
F—Arraignment and Trial.
  § 1. In general.
  § 2. With respect to Offences committed out of the Kingdom.
G—Benefit of Clergy—Transportation—Penitentiary Houses.
H—Judgments in Cases not included in the last Division.
I—Forfeiture—Corruption of Blood.
K—Pardon.
L—Miscellaneous Incidents.

(A)

SURETY OF PEACE, AND APPREHENSION OF OFFENDERS.

[No. I.] 3 Edward I. c. 9.—All Men shall be ready to pursue Felons.

[No. II.] 13 Edward I. st. 2. c. 1.—Fresh Suit shall be made after Felons and Robbers from Town to Town, &c.

[See Pt. IV. Cl. XXII. No. 1.]

[No. III.] 5 Edward III. c. 14.—Night-Walkers and suspected Persons shall be safely kept.

No. III. 5 Edw. III. c. 14.

"ITEM, Whereas in the statute made at *Winchester* in the time of King "*Edward*, grandfather to the King that now is, it is contained, That "if any stranger pass by the country in the night, of whom any have "suspicion, he shall presently be arrested and delivered to the sheriff, and "remain in ward till he be duly delivered. And because there have been "divers manslaughters, felonies, and robberies done in times past, by "people that be called roberdesmen, wastors, and draw-latchets;" 'it is 'accorded, That if any man have any evil suspicion of such, be it by day 'or by night, they shall be incontinently arrested by the constables of the 'towns. And if they be arrested within franchises, they shall be deli-'vered to the bailiffs of the franchise, and if in guildable, they shall be 'delivered to the sheriffs, and kept in prison till the coming down of the 'justices assigned to deliver the gaol. And in the mean time the sheriffs 'or bailiffs of the franchises shall enquire of such arrests, and at the com-'ing of the justices return their enquests before them, with that which 'they have found, and the cause of the takings, with the bodies, and the 'justices shall proceed to the deliverance of such persons arrested accord-'ing to the law. And in case that the sheriffs or bailiffs of the franchises 'have not enquired of such arrests, they shall be amerced, and neverthe-'less the justices shall make enquiry, and further proceed to the deliver-'ance, as before is said.'

[No. IV.] 28 Edward III. c. 11.*—Fresh Suit and Huy and Cry shall be made after Robbers from Country to Country.

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* At length, Pt. IV. Cl. XXII. No. 2.

[No. V.] 23 Henry VI. c. 9.—No Sheriff shall let to ferm his County or any Bailiwick. The Sheriffs and Bailiffs Fees and Duties in several Cases.

[See Pt. IV. Cl. III. No. 10.]

[No. VI.] 3 Henry VII. c. 1.—The Authority of the Court of Star Chamber. Where one Inquest shall inquire of the Concealment of another. A Coroner's Duty after a Mur-

der committed. A Justice of Peace shall certify his Recognizances, &c.

No. VI.
3 Hen. VII. c. 1.

I. AND also it is ordained by the same authority, That every justice of peace within this realm, that shall take any recognisance for the keeping of the peace, that the same justice do certify, send, or bring the same recognisance at the next sessions of peace, where he is or hath been justice, that the party so bound may be called; and if the party make default, the same default then there to be recorded, and the same recognisance, with the record of the default, be sent and certified into the Chancery, or afore the King in his Bench, or into the King's Exchequer.

A justice of the peace shall certify a recognisance by him taken, at the next Sessions.

[See for more, infrà.]

[No. VII.] 21 James I. c. 8.—An Act to prevent and punish the Abuses in Procuring Process and *Supersedeas* of the Peace and good behaviour out of his Majesty's Courts at *Westminster*, and to prevent the Abuses in procuring Writs of *Certiorari* out of the said Courts, for the removing of indictments found before Justices of the Peace in their General Sessions.

No. VII.
21 James I. c. 8.

'WHEREAS divers turbulent and contentious persons, some out of malice, and others in hope of gain, by way of composition, do oftentimes upon their corporal oaths peremptorily and corruptly taken, or otherwise upon false suggestions and surmises, procure process of the peace, or good behaviour out of his Majesty's Courts of Chancery and King's Bench, against divers of his Majesty's quiet subjects, whose dwellings and abodes are (for the most part) in counties far distant and remote from the said Courts, to their intolerable trouble and vexation, whereas they might upon good cause shewed receive justice at the hands of the justices of the peace in the counties where they dwell.'

Process and writs of supersedeas of the peace, or good behaviour, shall not be granted but upon motion in open Court. Certioraris shall not be allowed, unless the indictee will be bound to pay costs.

II. For remedy whereof, be it enacted by the authority of this present Parliament, That all process of the peace or good behaviour, after the end of this session of Parliament to be granted or awarded out of the same courts, or either of them, against any person or persons whatsoever, at the suit of or by the prosecution of any person or persons whatsoever, shall be void and of none effect, unless such process shall be so granted or awarded, upon motion first made before the judge or judges of the same courts respectively, sitting in open court, and upon declaration in writing, upon their corporal oaths, to be then exhibited unto them, by the parties which shall desire such process, of the causes for which such process shall be granted or awarded, by or out of any the said courts respectively, and unless that such motion and declaration be mentioned to be made upon the back of the writ; the said writings there to be entered and remain of record: And that if it shall afterwards appear unto the said courts, or either of them respectively, that the causes expressed in such writing, or any of them, be untrue; that then the judge or judges of the said courts, or either of them respectively, shall and may award such costs and damages unto the parties grieved, for their or any of their wrongful vexations in that behalf, as they shall think fit: And that the party or parties so offending shall and may be committed to prison by such judge or judges, until he or they pay the said costs and damages. 'And whereas divers turbulent and contentious persons, deservedly fearing to be bound to the peace or good behaviour by the justices of peace of the counties where they dwell, do oftentimes procure themselves to be bound to the peace or good behaviour in the said courts, or one of them, upon insufficient sureties, or upon colourable prosecution of some person or persons, who will be ready at all times to release them at their own pleasure; whereupon his Majesty's writs of *supersedeas* are oftentimes directed to the justices of peace, and other his Majesty's officers, requiring them and every of them to forbear to arrest or imprison the parties aforesaid for the causes abovesaid; by means whereof the said turbulent and contentious persons misdemean

No. VII. 21 James I. c. 8.

'themselves amongst themselves with impunity, to the great offence and 'disturbance of their neighbours amongst whom they converse and live, 'and to the affront of the justices of peace, and to the evil example and 'encouragement of like evil-disposed persons.'

III. Be it therefore enacted by the authority aforesaid, That all writs of *supersedeas* after the end of this present session of Parliament, to be granted by or out of either of the courts aforesaid, shall be void and of none effect, unless such process be granted likewise upon motion in open court first made as aforesaid, and upon such sufficient sureties as shall appear unto the judge or judges of the same court respectively, upon oath, to be assessed at five pounds lands, or ten pounds in goods, in the subsidy book, at the least; which oaths, and the names of such sureties, with the places of their abode, and where they stand so assessed in the subsidy books, shall be entered and remain of record in the same courts: And unless it shall also first appear unto the said judge or judges, from whom such supersedeas is desired, that the process of the peace, or good behaviour, is prosecuted against him or them, desiring such *supersedeas, bonâ fide,* by some party grieved, in that court, out of which such *supersedeas* is desired to be so awarded and directed.

IV. 'And whereas divers lewd and evil-disposod persons, commonly 'called bailers, or knights of the post, being base and beggarly persons, do 'oftentimes procure themselves to be assessed at high rates in the subsidy 'books, and sometimes do falsely take upon them the names of other men 'of good ability, of purpose to enable themselves to be accepted for bail, 'which persons being of small or no ability or worth, are ready for lucre 'and gain to become bound by recognisance as sureties for such persons as 'shall procure themselves to be bound to the peace or good behaviour as 'aforesaid by means whereof the judge or judges of the said courts not 'knowing them, may be easily abused, and justice deluded.'

False sureties procured for the gaining of writs of supersedeas shall be punished by the judges.

V. Be it further enacted by the authority aforesaid, That the judge or judges of the courts aforesaid respectively, or of either of them, upon proof of any of the misdemeanors aforesaid, to be committed in the obtaining of the aforesaid writs of *supersedeas,* or procuring such surety as aforesaid, shall and may likewise punish the false and insufficient sureties and bailers aforesaid, and the procurers thereof, according to their discretions, so as such punishment extend not to the loss of life or member.

VI. 'And whereas divers bills of indictments of riot, forcible entry, or 'of assault and battery, being found before the justices of peace at their 'quarter-sessions of the peace or otherwise, are often times removed from 'the counties where such indictments are found, by writs of *certiorari* unto 'them directed out of the said courts, by or by the means of the persons 'so indicted, who well know that few or no persons grieved by such their 'outrages and misdemeanors whereof they stand so indicted, will undergo 'the travel or charge of prosecution of such indictments so removed, by 'bringing the parties so indicted to trial; by means whereof such offenders 'for the most part escape unprosecuted and unpunished, and the King 'loseth the fines which ought and should have been imposed upon them, if 'such indictments had been prosecuted, and not removed:'

Certiorari not allowed unless indictee become bound to pay costs.

VII. Be it therefore enacted, That all such writs of *certiorari* shall from and after the end of this present session of Parliament, be delivered at some quarter-sessions of the peace in open court: And that the parties indicted shall before the allowance of such *certioraries* become bound unto such person or persons which shall prosecute such bills of indictment against them, in the sum of ten pounds, with such sufficient sureties as the justices of peace at their said quarter-sessions of the peace shall think fit, with condition to pay unto the said prosecutors of such bills of indictment, within one month after the conviction of such parties indicted, such reasonable costs and damages as the said justice of peace of such counties where such bills of indictment shall be found, in the said sessions of the peace shall assess or allow; and that in default thereof, it shall be lawful for the said justices to proceed to trial of such indictments; any such writs of *certiorari* to remove the same indictments notwithstanding.

[No. VIII.] 24 George II. c. 55.—An Act for amending and making more effectual a Clause in an Act passed in the last Session of Parliament, for the apprehending of Persons in any County or Place upon Warrants granted by Justices of the Peace of any other County or Place.

[See Part VI. Class XXIII. No. 15.]

[No. IX.] 13 George III. c. 31.—An Act for the more effectual Execution of the Criminal Laws in the two Parts of the United Kingdom.

No. IX. 13 Geo. III. c. 31.

'WHEREAS it frequently happens that felons, and other malefactors, in 'that part of *Great Britain* called *England*, make their escape into 'that part of *Great Britain* called *Scotland*; and also that felons, and other 'malefactors, in that part of *Great Britain* called *Scotland*, make their 'escape into that part of *Great Britain* called *England*; whereby their of-'fences often remain unpunished, there being no sufficient provision, by 'the laws of either of the two parts of the united kingdom for apprehend-'ing such offenders, and transmitting them into that part of the united 'kingdom in which their offences were committed:' For remedy thereof, may it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, if any person or persons, against whom a warrant shall be issued by any justice or justices of peace of any county, riding, division, city, liberty, town, or place, within that part of *Great Britain* called *England*, for any crime or offence against the laws of that part of the united kingdom, shall escape, go into, reside, or be in any place of that part of *Great Britain* called *Scotland*, it shall and may be lawful for the sheriff, or steward-depute, or substitute, or any justice of peace of the county or place where such person or persons shall escape, go into, reside or be, to indorse his name on the said warrant; which warrant, so indorsed, shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed; and also to all sheriffs officers, stewards officers, constables, and other peace officers of the county or place where such warrant shall be so indorsed, to execute the said warrant in the county or place where it is so indorsed, by apprehending the person or persons against whom such warrant is granted, and to convey him, her, or them, into the county, riding, division, city, liberty, town, or place, of that part of *Great Britain* called *England*, being adjacent to that part of *Great Britain* called *Scotland*, in which the crime was committed, and before one of the justices of peace of such county, riding, division, city, liberty, town, or place, to be there dealt with according to law: or, in case the crime was committed in a county not next adjacent to that part of *Great Britain* called *Scotland*; then, and in every such case, to convey him, her, or them, into any county of that part of *Great Britain* called *England*, next adjacent to that part of *Great Britain* called *Scotland*, and before one of the justices of peace of such county, which justice of peace is hereby authorised and required to proceed with regard to such person or persons, in the manner directed by an Act made in the twenty-fourth year of the reign of his Majesty King *George* the Second, intituled, *An Act for amending and making more effectual a Clause in an Act, passed in the last Session of Parliament, for the apprehending of Persons in any County or Place, upon Warrants granted by Justices of the Peace of any other County or Place*, as if the said person or persons had been apprehended in the said county.

Persons against whom warrants are issued in England, who shall escape into Scotland, may be conveyed into that county where the offence was committed by the justices, &c. in Scotland, who are to indorse their names on such warrants.

II. And, for remedy of the like inconveniency, by the escape of persons guilty of crimes in that part of *Great Britain* called *Scotland*, be it further enacted by the authority aforesaid, That, from and after the passing of this Act, if any person or persons, against whom a warrant shall be issued by

Persons guilty of like crimes in Scotland, may be apprehended and returned.

No. IX. 13 Geo. III. c. 31.

the lord justice general, lord chief justice clerk, or any of the lords commissioners of justiciary, or by any sheriff, or steward-depute, or substitute, or justice of the peace of that part of *Great Britain* called *Scotland*, for any crime or offence against the laws of that part of the united kingdom, shall escape, go into, reside, or be, in any place of that part of *Great Britain* called *England*, it shall and may be lawful for any justice of peace of the county, riding, division, city, liberty, town, or place, where such person or persons shall escape, go into, reside, or be, to indorse his name on the said warrant; which warrant, so indorsed, shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed; and also to all constables, or other peace officers of the county, riding, division, city, liberty, town or place, where such warrant shall be so indorsed, to execute the said warrant in the county, riding, division, city, liberty, town, or place, where it is so indorsed, by apprehending the person or persons against whom such warrant is granted, and to convey him, her, or them, into the county, or place of that part of *Great Britain* called *Scotland*, being adjacent to that part of *Great Britain* called *England* where the crime was committed; and before the sheriff or steward-depute, or substitute, or one of the justices of the peace of such county or place, to be there dealt with according to law: Or in case the crime was committed in a county not next adjacent to that part of *Great Britain* called *England;* then, and in such case, to convey, him, her, or them, into any county of that part of *Great Britain* called *Scotland*, next adjacent to that part of *Great Britain* called *England*, and before the sheriff, or steward-depute, or substitute, or one of the justices of the peace of such county; which sheriff, steward, or justice of the peace, is hereby required to proceed with regard to such person or persons according to the rules and practice of the law of *Scotland*, as if the said person or persons had been apprehended in the said county.

Expence of removing prisoners.

III. And be it further enacted by the authority aforesaid, That the expence of removing prisoners as aforesaid shall be repaid to the person defraying the same by the treasurer of the county of that part of *Great Britain* called *England*, or by the sheriff, or steward-depute, or substitute, of the county of that part of *Great Britain* called *Scotland*, in which the crime was committed, the amount of that expence being previously ascertained by an account thereof verified upon oath before two of the justices of the peace of such county, and allowed and signed by them.

IV. 'And whereas it frequently happens in both parts of the united 'kingdom, that persons having stolen or otherwise feloniously taken away 'money, cattle, goods, or other effects, carry the same into the other part 'of the united kingdom, and there have the said money, cattle, goods, or 'other effects, in their possession or custody; and doubts have been enter-'tained, whether they could be indicted and tried in that part of the united 'kingdom, as the original offence was not there committed;' be it therefore enacted by the authority aforesaid, That, from and after the passing of this Act, if any person or persons having stolen or otherwise feloniously taken money, cattle, goods, or other effects, in either part of the united kingdom, shall afterwards have the same money, cattle, goods, or other effects, or any part thereof, in his, her, or their possession or custody, in the other part of the united kingdom, it shall and may be lawful to indict, try, and punish such person or persons for theft or larceny in that part of the united kingdom where he, she, or they shall so have such money, cattle, goods, or other effects, in his, her, or their possession or custody, as if the said money, cattle, goods, or other effects, had been stolen in that part of the united kingdom.

Persons who shall have stolen money, &c. in either part of the united kingdom, may be indicted for theft.

Receivers of money, &c. in either part of the kingdom, knowing the same to be stolen, also liable to be punished.

V. And be it further enacted by the authority aforesaid, That if any person or persons, in either part of the united kingdom, shall hereafter receive or have any money, cattle, goods, or other effects, stolen, or otherwise feloniously taken, in the other part of the united kingdom, knowing the same to be stolen, or otherwise feloniously taken, every such person or persons shall be liable to be indicted, tried, and punished for such offence in that part of the united kingdom where he, she, or they shall so receive or have the said money, cattle, goods, or other effects, in the same

manner, to all intents and purposes, as if the said money, cattle, goods, or other effects, had been originally stolen, or otherwise feloniously taken, in that part of the united kingdom.

[No. X.] 44 George III. c. 92.—An Act to render more easy the apprehending, and bringing to Trial, Offenders escaping from one Part of the United Kingdom to the other, and also from one County to another.—[20*th July*, 1804.]

No. X. 44 Geo. III. c. 92.

'WHEREAS it frequently happens that persons, against whom warrants are granted by justices of peace for the several counties and places in *Ireland*, escape into other counties or places, out of the jurisdiction of the justices of peace granting such warrants; and it may also frequently happen, that persons having committed offences in some county or place in *Ireland*, may reside or be in some other county or place in which such offence was committed, whereby such offenders may or will easily avoid being punished for the offences wherewith they are charged;' be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the first day of *August* one thousand eight hundred and four, in case any person against whom a warrant shall be issued by any justice or justices of the peace of any county, city, liberty, town, or place, within *Ireland*, shall escape, go into, reside, or be, in any other county, city, liberty, town, or place, out of the jurisdiction of the justice or justices granting such warrant as aforesaid, it shall and may be lawful for any justice or justices of the peace for the county, city, liberty, town, or place, where such person shall escape, go into, reside, or be, and such justice or justices is and are hereby required upon proof being made upon oath of the handwriting of the justice or justices granting such warrant, to indorse his or their name or names on such warrant, which indorsement shall be a sufficient authority to the person or persons bringing such warrant, and to all other persons to whom such warrant was originally directed, to execute such warrant in the county, city, liberty, town, or place, where the same was indorsed, and to apprehend and carry such offender or offenders before the justice who indorsed such warrant, or before some other justice or justices of such other county, city, liberty, town or place where such warrant was indorsed; and in case the offence for which such offender shall be apprehended shall be bailable in law, and such offender shall be willing and ready to give bail for his or their appearance at the next assizes or general gaol delivery, or next general quarter-sessions of the peace to be held in and for the county, city, liberty, town, or place, where the offence was committed, such justice or justices by whom such warrant was indorsed, or such other justice before whom any such offender or offenders shall be brought, shall and may proceed with such offender or offenders, and take bail for his or their appearance at the next assizes or general gaol delivery, or at the next general quarter-sessions of the peace to be held in and for the county, city, liberty, town or place, where such offence was committed, in the same manner as the justices of the peace in the proper county, city, liberty, town, or place, should or might have done in such proper county, city, liberty, town, or place; and the justice or justices so taking bail as aforesaid, shall deliver the recognizance, together with the examination or confession of such offender or offenders, and all other proceedings relating thereto, had before such justice, to the constable or other officer or officers, or person or persons so apprehending such offender or offenders as aforesaid, who are hereby required to receive the same, and to deliver over such recognizance, examination, or other proceedings, to the clerk of the crown, or clerk of the peace of the county, city, liberty, town, or place, where such offender or offenders is or are required to appear by virtue of such recognizance; and such recognizance, examination, and confession respectively, shall be as good and effectual in law to all intents and purposes, and

Where persons against whom warrants have been issued, escape into another county in Ireland, the justices of the county where they reside, shall indorse the warrants for execution.

Where offences are bailable, justices may take bail, and transmit recognizance, &c. to the proper county.

No. X.

44 Geo. III. c. 92.

of the same force and validity, as if the same had been entered into, taken, or acknowledged, before a justice or justices of the peace in and for the proper county, city, liberty, town, or place, where the offence was committed, and the same proceedings shall be had thereon; and in case any constable, officer, or other person to whom such recognizance, examination, confession, or other proceedings shall be delivered as aforesaid, shall refuse or neglect to deliver over the same to the clerk of the crown, or clerk of the peace of the county, city, liberty, town, or place, where such offender is required to appear by virtue of such recognizance, such constable, officer, or other person, shall forfeit the sum of five pounds *Irish* currency, to be recovered against him by bill, civil bill, plaint, or information, in any of his Majesty's Courts of Record in *Ireland*, by any person or persons who will prosecute or sue for the same, wherein no essoign, protection, or wager of law, shall be allowed, nor more than one imparlance; and in case the offence for which such offender or offenders shall be apprehended and taken in manner aforesaid, shall not be bailable in law, or such offender or offenders shall not give bail for his or their appearance at the next assizes or general gaol delivery, or next general quarter sessions of the peace to be held in and for the county, city, liberty, town, or place, where the offence was committed, to the satisfaction of the justice before whom such offender or offenders shall be brought, then and in such case the constable, officer, or other person so apprehending such offender or offenders, shall carry and convey such offender or offenders before one of his Majesty's justices of peace of the proper county, city, liberty, town, or place, where such offence was committed, there to be dealt with according to law.

Penalty on constable for neglect in delivering recognizance, &c. 5*l*.

If offender not bailed, he shall be taken before a justice of the proper county.

Justices indorsing warrants not liable to action.

II. And be it further enacted, that no action of trespass, false imprisonment, or indictment, or other action, shall be brought, sued, commenced, or prosecuted by any person or persons whatsoever, against the justice or justices who shall indorse such warrant, for or by reason of his or their indorsing such warrant: Provided always, that such person or persons shall be at liberty to bring or prosecute his or their action or suit against the justice or justices who originally granted such warrant, in the same manner as such person or persons might have done in case this Act had not been made.

Offenders escaping from Ireland into Great Britain may be apprehended, and conveyed to Ireland.

III. 'And whereas it may frequently happen that felons and other malefactors, in that part of the united kingdom called *Ireland*, make their escape into that part of the united kingdom called *Great Britain*, as also that felons and other malefactors in that part of the united kingdom called *Great Britain* may make their escape into that part of the united kingdom called *Ireland*, whereby their offences often remain unpunished, there being no sufficient provision, by the laws now in force in *Great Britain* and *Ireland* respectively, for apprehending such offenders and transmitting them into that part of the united kingdom in which their offences were committed: For remedy whereof,' be it further enacted, That, from and after the first day of *August* one thousand eight hundred and four, if any person or persons against whom a warrant shall be issued by any of the judges of his Majesty's Court of King's Bench, or any justice of *oyer* and *terminer* or gaol delivery, or any justice or justices of the peace or other person having authority to issue the same within *Ireland*, for any crime or offence against the laws in force in *Ireland*, shall escape, go into, reside, or be in any place in *England* or *Scotland* respectively, it shall and may be lawful for any justice of the peace of the county, stewartry, riding, division, city, liberty, town, or place, in *England* or *Scotland* respectively, whither or where such person or persons shall escape, go into, reside, or be, to indorse his name on such warrant, which warrant so indorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all constables or other peace officers of the county, stewartry, riding, division, city, liberty, town, or place, where such warrant shall be so indorsed, to execute the said warrant in the county, riding, division, city, liberty, town, or place, where it is so indorsed, by apprehending the person or persons against whom such warrant is granted, and to convey him, her, or them by the most direct way into *Ireland*, and before one of the justices of the

peace of the county in *Ireland*, living near the place and in the county where he, she, or they shall arrive and land; which justice of the peace is hereby required to proceed with regard to such person or persons as if the said person or persons had been legally apprehended in the said county in *Ireland*.

Offenders escaping from Great Britain into Ireland may be apprehended and conveyed back in like manner.

IV. 'And, for remedy of the like inconveniency by the escape into *Ire-* '*land* of persons guilty of crimes in *England* or *Scotland* respectively,' be it further enacted, That, from and after the first day of *August* one thousand eight hundred and four, if any person or persons against whom a warrant shall be issued by any of the judges of his Majesty's Court of King's Bench, or of the Courts of Great Sessions in *Wales*, or any justice of oyer and terminer or gaol delivery, or any justice or justices of the peace of any county, stewartry, riding, division, city, liberty, town, or place, within *England* or *Scotland* respectively, or other person having authority to issue the same within *England* or *Scotland* respectively, for any crime or offence against the laws of *England* or *Scotland* respectively, shall escape, go into, reside, or be in any place of that part of the united kingdom called *Ireland*, it shall and may be lawful for any justice of the peace of the county or place in *Ireland*, whither or where such person or persons shall escape, go into, or reside, or be, to indorse his name on such warrant, which warrant so indorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all sheriffs' officers, constables, and other peace officers of the county or place in *Ireland* where such warrant shall be so indorsed, to execute the said warrant in the county or place in *Ireland* where it is so indorsed, by apprehending the person or persons against whom such warrant may be granted, and to convey him, her, or them, by the most direct way into *England* or *Scotland* respectively, and before one of the justices of peace of the county or stewartry, in *England* or *Scotland* respectively, living near the place and in the county where he, she, or they shall arrive and land, which justice of peace is hereby authorized and required to proceed with regard to such person or persons as if such person or persons had been legally apprehended in the said county or stewartry of *England* or *Scotland* respectively.

Expence of removal of prisoners shall be defrayed by treasurers of counties, &c.

V. And be it further enacted, That the expence of removing prisoners as aforesaid to any place in *England*, *Scotland* and *Ireland* respectively, shall be repaid to the person defraying the same by the treasurer of the county in *England* or *Ireland* respectively, or by the sheriff or stewart depute or substitute of the county or stewartry in *Scotland*, in which the crime was committed, the amount of such expence being previously ascertained by an account thereof verified upon oath before two of the justices of the peace of such county or stewartry, and allowed and signed by them; and such treasurer, sheriff, or stewart depute or substitute, shall be allowed such payments in their respective accounts.

Treasurers of counties in Ireland shall be reimbursed their expences by presentments of grand juries.

VI. And be it further enacted, That the treasurers of the several counties in *Ireland* who have paid the amount of any such expences so ascertained as aforesaid, shall lay the said account, together with the allowance of the same so signed as aforesaid, before the grand juries of their respective counties, at the assizes holden for such counties next after such expences shall be paid, or at any subsequent assizes; and it shall be lawful for such grand juries and they are hereby respectively required to present a sum equal to the amount of such expences, to be raised from the county at large, for the purpose of reimbursing such treasurer.

Offenders escaping with stolen goods from one part to any other of the kingdom may be tried in the place where the same shall be found.

VII. 'And whereas it frequently happens, that persons having stolen or 'otherwise feloniously taken away money, cattle, goods, or other effects, 'in one of the parts of the united kingdom, carry the same into another 'part of the said united kingdom, and there have the said money, cattle, 'goods, or other effects in their possession or custody; and doubts may be 'entertained whether they could be indicted and tried in that part of the 'united kingdom where such offenders have the said money, cattle, goods, 'and other effects, in their possession or custody, as the original offence 'was not committed in such part of the said united kingdom;' be it therefore further enacted and declared, That from and after the first day of *August*,

No. X. 44 Geo. III. c. 92.

one thousand eight hundred and four, if any person or persons having stolen or otherwise feloniously taken money, cattle, goods, or other effects, in any one of the parts of the said united kingdom, shall afterwards have the same money, goods, chattels, or other effects, or any part thereof, in his, her, or their possession or custody, in any other part of the united kingdom, it shall and may be lawful to indict, try, and punish such person or persons for theft or larceny, in that part of the united kingdom where he, she, or they shall so have such money, cattle, goods, or other effects, in his, her, or their possession or custody, as if the said money, cattle, goods, or other effects, had been stolen in that part of the united kingdom.

Persons receiving such stolen goods may be tried in the place where they receive the same.

VIII. And be it further enacted, That if any person or persons in any one of the parts of the united kindom shall hereafter receive or have any cattle, goods, or other effects, stolen or otherwise feloniously taken in any other part of the united kingdom, knowing the same to have been stolen or otherwise feloniously taken, every such person or persons shall be liable to be indicted, tried, and punished for such offences in that part of the united kingdom where he, she, or they shall so receive or have the said cattle, goods, or other effects, in the same manner to all intents and purposes as if the said cattle, goods, or other effects had been originally stolen or otherwise feloniously taken, in that part of the united kingdom in which such person shall so receive or have such cattle, goods, or other effects respectively.

[No. XI.] 45 George III. c. 92.—An Act to amend two Acts of the thirteenth and forty-fourth years of his present Majesty, for the more effectual execution of the Criminal Laws, and more easy apprehending and bringing to Trial Offenders escaping from one part of the United Kingdom to the other, and from one County to another.—[10*th July* 1805.]

No. XI. 45 Geo. III. c. 92.

13 G. 3. c. 31. 44 G. 3. c. 92.

'WHEREAS by an Act, passed in the thirteenth year of his present Majesty's reign, intituled, *An Act for the more effectual execution of the criminal laws in the two parts of the United Kingdom;* and by another Act passed in the forty-fourth year of his present Majesty's reign, intituled, *An Act to render more easy the apprehending and bringing to trial offenders escaping from one part of the United Kingdom to the other, and also from one county to another;* Provision is made for the apprehending of offenders in *England*, *Scotland*, and *Ireland* respectively, so that such offenders may be apprehended in one of the said parts of the united kingdom for offences charged to have been committed within either of the other parts of the same. And whereas there is no provision made in the said Acts for admitting such persons to bail, who may be so apprehended for offences which by law are bailable:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in case any person or persons shall be apprehended in one of the said parts of the united kingdom for an offence which was committed, or charged to have been committed, in either of the other parts of the same, under any warrant indorsed in such manner as is in that respect provided by virtue of either of the said recited Acts, such person or persons shall and may be taken before the judge or justice who indorsed the said warrant, or before some other justice or justices of the county, stewartry, city, liberty, town or place where the same was indorsed; and in case the offence be bailable in law, and such offender or offenders shall be willing and ready to give bail for his, her, or their appearance, according to the exigence of the said warrant, such judge or justice or justices by whom such warrant was indorsed, or before whom any such offender or offenders shall be brought, shall and may proceed with such offender or offenders, and take bail for him, her, or them, according to the exigence of the said warrant, in the same manner as the judge or justice who originally issued the same should or might have done; and

Parties apprehended in one part of U. K. for offences charged to be committed in any other part thereof, shall be admitted to bail, and duplicates of the bail bond shall be delivered, one to the officer apprehending, and the other to

such judge or justice or justices so taking bail as aforesaid shall take the recognizance or bail bond of the said offender or offenders, and of his, her, or their bail, in duplicate, and shall deliver one of such duplicates to the constable, or other officer or officers, or person or persons so apprehending such offender or offenders as aforesaid, who are hereby required to receive the same, and to deliver, or cause to be delivered such recognizance or bail bond to the clerk of the crown, or clerk of the peace, or other proper officer for receiving the same, belonging to the Court in which by such recognizance or bail bond such offender or offenders shall be bound to appear, and such recognizance or bail bond shall be as good and effectual in law, to all intents and purposes, and of the same force and validity, as if the same had been entered into, taken, or acknowledged before a judge or justice or justices of the peace of the said county, stewartry, city, town, liberty, or place where the offence was committed; and the said judge or justice or justices so taking bail as aforesaid, shall transmit the other of such duplicates to the Court of Exchequer of such part of the united kingdom in which such bail shall be taken, there to be kept of record; and it shall and may be lawful for the Court, in which any person so bound to appear shall forfeit his or her said recognizance or bail bond, to transmit a certificate, testifying the forfeiture thereof, under the seal of the Court, or under the hand and seal of one of the judges or justices of the same, to the Court of Exchequer, in that part of the united kingdom in which such recognizance or bail bond shall have been taken; and it shall and may be lawful for such Court of Exchequer to proceed upon such certificate to levy the sum so forfeited, in the same manner in which they may proceed upon any recognizance or bail bond, taken and forfeited within the same part of the united kingdom, and estreated in due course into the said Court: Provided always, that if such offence be not bailable in law, or such offender or offenders shall not give bail for his, her, or their appearance, according to the exigence of such warrant, the said judge or justice or justices before whom such offender or offenders shall be brought, shall remand him, her, or them, to the custody of the constable or other officer or person who shall have apprehended such offender or offenders, and such constable, officer, or other person shall proceed to convey such offender or offenders into that part of the united kingdom wherein the offence was committed, by such ways and means as are provided by the said recited Acts respectively.

the Court of Exchequer, &c.

Parties not bailable, nor bailed, shall be remanded to custody as under recited Acts.

II. 'And whereas it may happen by reason of the difference in the law 'prevailing in the said different parts of the united kingdom that the judge 'or justice or justices before whom any offender or offenders shall be 'brought under such warrant so indorsed, may not know whether the of- 'fence mentioned in such warrant be or be not bailable; for the better in- 'formation therefore of such judge or justice or justices in that particular,' be it further enacted, That in case any person suing out such warrant shall shew, by affidavit or otherwise, to the satisfaction of the judge or justice granting such warrant, that it may be necessary to execute such warrant in a part of the united kingdom different from that in which such warrant is issued, and it shall appear also to the judge or justice granting such warrant, that it is granted for an offence for which it would not be lawful for any judge or justice or justices, before whom such offender or offenders might be brought, by reason of the indorsement of such warrant as directed by the said recited Acts, to admit such offender or offenders to bail, such judge or justice granting such warrant shall, upon the face of such warrant, write the words "not bailable;" and in all cases in which such words shall not have been so written, it shall and may be lawful for the judge or justice or justices, before whom any offender or offenders may be brought under such warrant so indorsed, to admit such offender or offenders to bail.

The judge, &c. granting the original warrant, shall write "not bailable," on the face of warrants for offences not bailable, &c.

III. 'And whereas it is fit to provide for the appearance of persons to an- 'swer in cases where warrants are not usually issued, and to give evidence 'in criminal prosecutions in every part of the united kingdom;' be it further enacted, That the service of every writ of subpœna, or other process, upon any person, in any one of the parts of the united kingdom, requiring the appearance of such person to answer or give evidence in any criminal

Service of subpœna on parties or witnesses in any part of the united kingdom shall be

No. XI. 45 Geo. III. c. 92.

prosecution, in any other of the parts of the same, shall be as good and effectual in law as if the same had been served in that part of the united kingdom where the person so served is required to appear; and in case such person so served shall not appear according to the exigence of such writ or process, it shall be lawful for the court out of which the same issued, upon proof made of the service thereof, to the satisfaction of the said court, to transmit a certificate of such default under the seal of the same court, or under the hand of one of the judges or justices of the same, to the Court of King's Bench in *England* in case such service was had in *England*, or in case such service was had in *Scotland*, to the Court of Justiciary in *Scotland*, or in case such service was had in *Ireland*, to the Court of King's Bench in *Ireland;* and the said last mentioned courts respectively shall and may thereupon proceed against and punish the person so having made default, in like manner as they might have done if such person had neglected or refused to appear in obedience to a writ of subpœna or other process issued out of such last mentioned courts respectively.

Valid to compel appearance in any other part.

Expence of attendance on writs of subpœna shall be tendered to witnesses.

IV. Provided always, and be it further enacted, That none of such last mentioned courts shall in any case proceed against or punish any person for having made default by not appearing to give evidence in obedience to any writ of subpœna or other process for that purpose, unless it shall be made to appear to such court that a reasonable and sufficient sum of money to defray the expences of coming and attending to give evidence, and of returning from giving such evidence, had been tendered to such person at the time when such writ of subpœna or other process was served upon such person.

Judges shall not indorse warrants under recited Acts, unless on indictment, &c. found, or for some capital crime or felony. Repealed No. 13, post.

V. Provided always, and it is hereby further enacted, That it shall not be lawful for any judge or justice to indorse by virtue of either of the said recited Acts or this Act any warrant, unless the same shall appear to have issued, if in *England* or *Ireland* upon some indictment found or information filed, or if in *Scotland* upon some libel or criminal letters raised and passed under the signet of the Court of Justiciary, against the person or persons named in such warrant, or unless the same shall appear to have issued in respect of some capital crime or felony mentioned in such warrant; any thing in this and the said recited Acts contained to the contrary notwithstanding.

Before warrants are acted upon, proof shall be given of the sealing, &c. thereof. Repealed No. 13, post.

VI. And be it further enacted and declared, That in all cases in which any warrant or certificate shall, by virtue of either of the said recited Acts or this Act, be required to be acted upon in any part of the united kingdom, other than that in which the same was originally issued, it shall not be lawful for any court, or any judge or justice, to proceed to enforce or act upon the same, until it shall be proved upon oath to such court, judge, or justice, that the seal, signet, and signature upon the same, are the seal, signet, and signature respectively of the court, judge, or justice, whose seal, signet, and signature, the same respectively shall purport to be.

Act shall not affect prosecutions depending under 44 G. 3. c. 92.

VII. Provided always, and be it enacted, That nothing in this Act contained shall, with respect to any prosecution depending before the passing of this Act, be deemed or taken by any court to alter or affect in any manner the construction of the said Act of the forty-fourth year of his Majesty's reign, if any question should arise whether such prosecution be authorized by the true intent and meaning of the said Act.

[No. XII.] 48 George III. c. 58.—An Act for amending the Law with regard to the Course of Proceeding on Indictments and Informations in the Court of King's Bench in certain Cases; for authorising the execution in *Scotland* of certain Warrants issued for Offences committed in *England;* and for requiring Officers taking Bail in the King's Suit to assign the Bail Bonds to the King.—[1*st June* 1808.]

No. XII.
48 Geo. III.
c. 58.

'WHEREAS the provisions contained in two Acts of the twenty-sixth and thirty-fifth years of his present Majesty's reign, for amending 'the law with regard to the course of proceeding on indictments and informations in the Court of King's Bench, in certain cases relating to the 'publick revenue, have been found beneficial, and it is expedient to extend 'the same to other cases:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That whenever any person shall be charged with any offence for which he or she may be prosecuted by indictment or information in his Majesty's Court of King's Bench, not being treason or felony, and the same shall be made appear to any judge of the same court by affidavit, or by certificate of an indictment or information being filed against such person in the said court for such offence, it shall and may be lawful for such judge to issue his warrant under his hand and seal, and thereby to cause such person to be apprehended and brought before him or some other judge of the same court, or before some one of his Majesty's justices of the peace, in order to his or her being bound to the King's Majesty with two sufficient sureties, in such sum as in the said warrant shall be expressed, with condition to appear in the said court at the time mentioned in such warrant, and to answer to all and singular indictments or informations for any such offence; and in case any such person shall neglect or refuse to become bound as aforesaid, it shall be lawful for such judge or justice respectively to commit such person to the common gaol of the county, city, or place where the offence shall have been committed, or where he or she shall have been apprehended, there to remain until he or she shall have become bound as aforesaid, or shall be discharged by order of the said court in term time, or of one of the judges of the said court in vacation; and the recognizance to be thereupon taken shall be returned and filed in the said court, and shall continue in force until such person shall have been acquitted of such offence, or in case of conviction, shall have received judgment for the same, unless sooner ordered by the said court to be discharged; and that where any person, either by virtue of such warrant of commitment as aforesaid, or by virtue of any writ of *capias ad respondendum* issued out of the said court, is now detained or shall hereafter be committed to and detained in any gaol for want of bail, it shall be lawful for the prosecutor of such indictment or information to cause a copy thereof to be delivered to such person, or to the gaoler, keeper, or turnkey of the gaol wherein any such person is or shall be so detained, with a notice thereon indorsed, that unless such person shall, within eight days from the time of such delivery of a copy of the indictment or information as aforesaid, cause an appearance and also a plea or demurrer to be entered in the said court to such indictment or information, an appearance and the plea of not guilty will be entered thereto in the name of such person; and in case he or she shall thereupon for the said space of eight days after such delivery of a copy of the indictment or information as aforesaid, neglect to cause an appearance, and also a plea or demurrer to be entered in the said court to such indictment or information, it shall be lawful for the prosecutor of such indictment or information, upon an affidavit being made and filed in the said court, of the delivery of a copy of such indictment or information, with such notice indorsed thereon as aforesaid, to such person, or to such gaoler, keeper, or turnkey, as the case may be, which affidavit may be made before any judge or commissioner of the said court authorized to take affidavits in the said court, to cause an appearance and the plea of not guilty to be entered in the said court to such indictment or information, for such person, and such proceedings shall be had thereupon as if the defendant in such indictment or information had appeared and pleaded not guilty according to the usual course of the said court; and that if upon the trial of such indictment or information any defendant so committed and detained as aforesaid shall be acquitted of all the offences therein charged upon him or her, it shall be lawful for the judge before whom such trial shall be had, although he may not be one of the judges of the said Court of King's Bench, to order that

26 G. 3. c. 77. § 13.
35 G. 3. c. 96.

When any person is charged with any offence (not being treason or felony) for which he may be prosecuted by indictment or information in K. B.: upon affidavit thereof, or on certificate of indictment, &c. being filed, any judge of the court may issue his warrant to apprehend the party; who shall be thereupon held to bail to answer the charge, or on failure of bail shall be committed: And if any person in custody for want of bail shall not plead in 8 days after copy of indictment, &c. and notice to plead are delivered at the gaol, the prosecutor may enter the plea of not guilty and proceed to trial.

Party acquitted may be discharged.

No. XII. 48 Geo. III. c. 58.

such defendant shall be forthwith discharged out of custody as to his or her commitment as aforesaid, and such defendant shall be thereupon discharged accordingly.

II. 'And whereas by an Act made in the thirteenth year of his present 'Majesty's reign, intituled, *An Act for the more effectual Execution of the* 13 G. 3. c. 31. *'Criminal Laws in the Two Parts of the United Kingdom*, it is among other 'things enacted, that if any person or persons against whom a warrant 'shall be issued by any justice or justices of the peace of any county, rid-'ing, division, city, liberty, town, or place within that part of *Great* '*Britain*, called *England*, for any crime or offence against the laws of that 'part of the united kingdom, shall escape, go into, reside, or be in any 'place of that part of *Great Britain* called *Scotland*, it shall be lawful for 'the sheriff or steward depute or substitute, or any justice of the peace of 'the county or place where such person or persons shall escape, go into, 'reside, or be, to indorse his name on the said warrant, which warrant so 'indorsed shall be a sufficient authority to the person or persons bringing 'such warrant, and to all persons to whom such warrant was originally 'directed, and also to all sheriffs' officers, steward's officers, constables, and 'other peace officers of the county or place where such warrant shall be 'indorsed, to execute the said warrant in the county or place where it is 'so indorsed, by apprehending the person or persons against whom such 'warrant is granted, and to convey him, her, or them into that part of '*Great Britain* called *England*, there to be dealt with in the manner 'directed by the said Act; which Act has been amended by another Act, 45 G. 3. c. 92. 'passed in the forty-fifth year of the reign of his present Majesty, intituled, '*An Act to amend two Acts of the thirteenth and forty-fourth years of his* '*present Majesty, for the more effectual Execution of the Criminal Laws,* '*and more easy apprehending and bringing to Trial Offenders escaping from* '*one Part of the United Kingdom to the other, and from one County to* '*another*; and it is expedient that like provision should be made for the 'execution in *Scotland* of warrants to be issued by other persons than jus-'tices of the peace having authority to issue the same in *England*;' Be it

Power under recited Acts as to execution in Scotland of warrants of justices of peace issued in England, extended to warrants issued by judges of K. B. &c.

therefore enacted, That from and after the passing of this Act, all clauses, matters and things in the said recited Acts, whereby the execution in *Scotland* of any warrant or warrants issued by any justice or justices of the peace in *England* for any crime or offence against the laws of that part of the united kingdom is authorized and regulated, shall extend to all warrants issued by any of the justices of his Majesty's Court of King's Bench in *England*, or the Courts of Great Sessions in *Wales*, or by any justice of *Oyer* and *Terminer* or gaol delivery, or other person having authority to issue the same in *England*, for any crime or offence against the laws of *England*, in as full and ample a manner, to all intents and purposes, as if such last mentioned justices and persons were specially named in the said recited Acts.

Bail bonds in the King's suits shall be assigned by the sheriffs, &c.

III. And be it further enacted, That if any person shall be arrested after the passing of this Act, by any writ of *capias ad respondendum* issuing out of any of his Majesty's Courts of Record at *Westminster*, or out of the Superior Court of Record of either of the counties palatine, or out of any of the Courts of Great Sessions in *Wales*, at the suit of the King's Majesty, his heirs or successors, and the sheriff or other officer shall take bail from such person, the sheriff or other officer, at the request and costs of the prosecutor of such writ, shall assign to the King's Majesty, his heirs and successors, the bail bond taken from such bail, by indorsing the same, and attesting it under his hand and seal in the presence of two or more credible witnesses, which may be done without any stamp, provided the assignment so indorsed be duly stamped before any suit be commenced thereupon; and if such bail bond be forfeited, such process shall thereupon issue as on bonds originally made to the King's Majesty, his heirs and successors, and the court in which such bail bond is put in suit, may by rule or rules of the same court give such relief to the defendant or defendants as is agreeable to justice and reason.

No. XIII.
54 Geo. III.
c. 186.

[No. XIII.] 54 George III. c. 186.—An Act for the more easy apprehending and trying of Offenders, escaping from one Part of the United Kingdom to the other.—[30th *July* 1814.]

'WHEREAS an Act passed in the thirteenth year of his present Majesty's reign, intituled, *An Act for the more effectual Execution of the Criminal Laws of the two Parts of the United Kingdom*: And whereas another Act passed in the forty-fourth year of his present Majesty's reign, intituled, *An Act to render more easy the apprehending, and bringing to Trial, Offenders escaping from one Part of the United Kingdom to the other, and also from one County to another*: And whereas another Act passed in the forty-fifth year of the reign of his present Majesty, intituled, *An Act to amend two Acts of the thirteenth and forty-fourth Years of his present Majesty, for the more effectual Execution of the Criminal Laws, and more easy apprehending and bringing to trial Offenders escaping from one Part of the United Kingdom to the other, and also from one County to another*: And whereas it is expedient that the restriction, in the said last recited Act contained, as to the warrants to be indorsed under the said recited Acts, should be repealed, and that further provision should be made for apprehending and trial of offenders escaping from one part of the united kingdom to the other:' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said last recited Act as enacts, that it shall not be lawful for any judge or justice to indorse any warrant, unless the same shall appear to have issued, if in *England* or *Ireland*, upon some indictment found or information filed, or if in *Scotland*, upon some libel or criminal letters raised and passed under the signet of the Court of Justiciary, against the person or persons named in such warrant, or unless the same shall appear to have issued in respect of some capital crime or felony mentioned in such warrant; and that in all cases in which any warrant or certificate shall be required to be acted upon in any part of the united kingdom, other than that in which the same was originally issued, it shall not be lawful for any court, or any judge or justice, to proceed to enforce or act upon the same, until it shall be proved upon oath to such court, judge or justice, that the seal, signet and signature upon the same are the seal, signet and signature respectively of the court, judge or justice, whose seal, signet and signature the same respectively purport to be, shall be and the same are hereby repealed.

13 G. 3. c. 31.

44 G. 3. c. 92.

45 G. 3. c. 92.

45 G. 3. s. 5, 6, repealed.

II. And be it further enacted, That from and after the passing of this Act, all warrants issued in *England, Scotland*, or *Ireland* respectively, may and shall be indorsed and executed, and enforced and acted upon, in any part of the united kingdom, in such and the like manner as is directed by the said first recited Act of the thirteenth year of the reign of his present Majesty, in relation to warrants, issued or granted in *England* and *Scotland* respectively, as fully and effectually, to all intents and purposes, as if all the provisions of the said Act were in this Act severally and separately repeated and re-enacted and made part of this Act, as to every part of the united kingdom, and as to all justices of the peace, sheriffs' officers, constables or other officer or officers of the peace in *Ireland* as well as in *England* and *Scotland* respectively.

Warrants indorsed and acted upon in either country. 13 G. 3. c. 31. s. 1, 2.

III. And be it further enacted, That it shall be lawful for any judge of any of his Majesty's Courts of Record in *Westminster*, of the Court of Sessions in the county palatine of *Chester*, or of any of the Courts of Great Sessions in *Wales*, or for any judge of any of his Majesty's Courts of Record in *Dublin*, to indorse any letters of second diligence issued in *Scotland*, for compelling the attendance of any witness or witnesses resident in *England*, *Wales* or *Ireland*, upon any criminal trial in *Scotland*; and such letters shall upon such indorsement have the like force and effect as

Judges in either country to indorse letters of second diligence.

No. XIII. 54 Geo. III. c. 168.

the same would have in *Scotland*, and shall entitle the bearer thereof to apprehend the witness or witnesses mentioned therein, and to convey such witness or witnesses to *Scotland*, for the purposes of the trial or trials in respect of which such letters shall have been issued, without any tender of any expence or expences of any such witness or witnesses; any thing contained in the said last recited Act of the forty-fifth year aforesaid to the contrary notwithstanding.

[No. XIV.] 58 George III. c. 1.—An Act to repeal an Act made in the last Session of Parliament, intituled, *An Act to continue an Act to empower his Majesty to secure and detain such Persons as his Majesty shall suspect are conspiring against his Person and Government.*

[No. XV.] 58 George III. c. 6.—An Act for indemnifying Persons, who, since the twenty-sixth day of *January*, one thousand eight hundred and seventeen, have acted in apprehending, imprisoning, or detaining in Custody Persons suspected of High Treason, or Treasonable Practices, and in the suppression of tumultuous and unlawful Assemblies. —[17th *March* 1818.]

[No. XVI.] 7 George IV. c. 64.—An Act for improving the Administration of Criminal Justice in *England*.—[26th *May* 1826.]

No. XVI. 7 Geo. IV. c. 64.

WHEREAS it is expedient to define under what circumstances persons may be admitted to bail in cases of felony, and to make better provisions for taking examinations, informations, bailments, and recognizances, and returning the same to the proper tribunals; And whereas the technical strictness of criminal proceedings might in many instances be relaxed, so as to ensure the punishment of the guilty, without depriving the accused of any just means of defence; and the administration of justice in that part of the United Kingdom called *England* might in other respects be rendered more effectual: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That where any person shall be taken on a charge of felony or suspicion of felony, before one or more justice or justices of the peace, and the charge shall be supported by positive and credible evidence of the fact, or by such evidence as, if not explained or contradicted, shall, in the opinion of the justice or justices, raise a strong presumption of the guilt of the person charged, such person shall be committed to prison by such justice or justices, in the manner herein-after mentioned; but if there shall be only one justice present, and the whole evidence given before him shall be such as neither to raise a strong presumption of guilt nor to warrant the dismissal of the charge, such justice shall order the person charged to be detained in custody until he or she shall be taken before two justices at the least; and where any person so taken, or any person in the first instance taken before two justices of the peace, shall be charged with felony or on suspicion of felony, and the evidence given in support of the charge shall, in their opinion, not be such as to raise a strong presumption of the guilt of the person charged, and to require his or her committal, or such evidence shall be adduced on behalf of the person charged as shall in their opinion weaken

Who may be admitted to Bail on a Charge of Felony, and who may not. (3 Ed. 1. c. 15. 23 H. 6. c. 9.)

the presumption of his or her guilt, but there shall notwithstanding appear to them, in either of such cases, to be sufficient ground for judicial inquiry into his or her guilt, the person charged shall be admitted to bail by such two justices, in the manner herein-after mentioned: Provided always, that nothing herein contained shall be construed to require any such justice or justices to hear evidence on behalf of any person so charged as aforesaid, unless it shall appear to him or them to be meet and conducive to the ends of justice to hear the same.

II. And whereas it is expedient to amend and extend the provisions of two Acts, the first passed in the first and second years of the reign of King *Philip* and Queen *Mary*, intituled *An Act appointing an Order to Justices of Peace for the Bailment of Prisoners*, and the second passed in the second and third years of the same reign, intituled *An Act to take Examination of Prisoners suspected of Manslaughter or Felony*; be it therefore enacted, That the two justices of the peace, before they shall admit to bail, and the justice or justices, before he or they shall commit to prison, any person arrested for felony or on suspicion of felony, shall take the examination of such person, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or as much thereof as shall be material, into writing; and the two justices shall certify such bailment in writing; and every such justice shall have authority to bind by recognizance all such persons as know or declare any thing material touching any such felony or suspicion of felony, to appear at the next court of oyer and terminer, or gaol delivery, or superior criminal court of a county palatine, or great sessions or sessions of the peace, at which the trial thereof is intended to be, then and there to prosecute or give evidence against the party accused; and such justices and justice respectively shall subscribe all such examinations, informations, bailments, and recognizances, and deliver or cause the same to be delivered to the proper officer of the court in which the trial is to be, before or at the opening of the court.

1 & 2 P. & M. c. 13.

2 & 3 P. & M. c. 10.

Before any Person charged with Felony, &c. shall be bailed or committed, the Justices shall take down in Writing the Examination, &c. and bind Witnesses to appear at the Trial.

Examinations, &c., to be delivered to the Court.

III. And be it further enacted, That every justice of the peace before whom any person shall be taken on a charge of misdemeanor, or suspicion thereof, shall take the examination of the person charged, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or as much thereof as shall be material, into writing, before he shall commit to prison or require bail from the person so charged; and in every case of bailment shall certify the bailment in writing; and shall have authority to bind all persons by recognizance to appear to prosecute or give evidence against the party accused, in like manner as in cases of felony; and shall subscribe all examinations, informations, bailments, and recognizances, deliver or cause the same to be delivered to the proper officer of the court in which the trial is to be, before or at the opening of the court, in like manner as in cases of felony.

Duty of Justice on Charges of Misdemeanor.

IV. And be it further enacted, That every coroner, upon any inquisition before him taken, whereby any person shall be indicted for manslaughter or murder, or as an accessory to murder before the fact, shall put in writing the evidence given to the jury before him, or as much thereof as shall be material; and shall have authority to bind by recognizance all such persons as know or declare any thing material touching the said manslaughter or murder, or the said offence of being accessory to murder, to appear at the next court of oyer and terminer, or gaol delivery, or superior criminal court of a county palatine, or great sessions, at which the trial is to be, then and there to prosecute or give evidence against the party charged, and every such coroner shall certify and subscribe the same evidence, and all such recognizances, and also the inquisition before him taken, and shall deliver the same to the proper officer of the court in which the trial is to be, before or at the opening of the court.

Duty of Coroner. (1 & 2 P. & M. c. 13. s. 5.)

V. And be it further enacted, That if any justice or coroner shall offend in any thing contrary to the true intent and meaning of these provisions, the court to whose officer any such examination, information, evidence, bailment, recognizance, or inquisition ought to have been delivered, shall,

Penalty on Justices and Coroners. (1 & 2 P. & M. c. 13. s. 5.)

No. XVI. 7 Geo. IV. c. 64.

upon examination and proof of the offence in a summary manner, set such fine upon every such justice or coroner as the court shall think meet.

Provisions to apply to all Justices and Coroners. (1 & 2 P. & M. c. 13. s. 6.) 3 W. & M. c. 9. s. 2.

VI. And be it further enacted, That all these provisions relating to justices and coroners shall apply to the justices and coroners not only of counties at large, but also of all other jurisdictions.

VII. And whereas divers statutes, taking away the benefit of clergy, or creating felonies without benefit of clergy, have omitted to take away the benefit of clergy under certain circumstances consequent upon the indictment of the offender: And whereas a partial remedy for such defects was supplied by an Act passed in the third year of the reign of King *William* and Queen *Mary*, intituled *An Act to take away Clergy from some Offenders, and to bring other to Punishment*, whereby it was enacted, that if any person should be indicted of any offence for which, by virtue of any former statute, such person was excluded from the benefit of clergy, if convicted by verdict or confession, such person should not be admitted to the benefit of clergy under any of the circumstances therein enumerated: And whereas it is expedient to extend the like remedy to all offences which now are or hereafter shall be excluded from the benefit of clergy: Be it therefore enacted, That if any person shall be indicted of any offence for which, by virtue of this or of any other statute or statutes made or to be made, the offender is or shall be excluded from the benefit of clergy, such person shall be equally excluded from the benefit of clergy, whether he or she shall be convicted by verdict or by confession, or shall upon arraignment stand mute of malice, or will not answer directly to the charge, or shall challenge peremptorily above the number of twenty persons returned to be of the jury, or shall be outlawed upon such indictment, although the statute or statutes taking away the benefit of clergy in any such case may not expressly provide that the offender shall be excluded from the benefit of clergy in case such offender shall confess, or stand mute, or not answer directly, or challenge peremptorily above the number of twenty persons returned to be of the jury, or be outlawed; and every thing herein contained shall extend as well to all accessories as to principals.

Felonies without Benefit of Clergy provided for under all Circumstances consequent on the Indictment. (3 W. & M. c. 9. s. 2. 12 G. 3. c. 20.)

Felonies within Benefit of Clergy provided for under all Circumstances consequent on the Indictment. (12 G. 3. c. 20.)

VIII. And, with regard to clergyable felonies, be it enacted, That if any person shall be indicted of any felony for which the offender is or shall be entitled to the benefit of clergy, and such person shall on arraignment confess the felony, or stand mute of malice, or will not answer directly to the charge, or shall challenge peremptorily above the number of twenty persons returned to be of the jury, or shall be outlawed upon such indictment, in every such case such person shall be deemed and taken to be convicted of the felony, and the court shall award such judgment as if such person had been convicted by verdict; and every thing herein contained shall extend as well to all accessories as to principals.

Accessory before the Fact may be tried as such, or as a substantive Felon, by any Court which has Jurisdiction to try the principal Felon, although the Offence be committed on the Seas or abroad. (43 G. 3. c. 113. s. 5.)

IX. And, for the more effectual prosecution of accessories before the fact to felony, be it enacted, That if any person shall counsel procure or command any other person to commit any felony, whether the same be a felony at common law, or by virtue of any statute or statutes made or to be made, the person so counselling procuring or commanding shall be deemed guilty of felony, and may be indicted and convicted, either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished; and the offence of the person so counselling procuring or commanding, howsoever indicted, may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if such offence had been committed at the same place as the principal felony, although such offence may have been committed either on the high seas or at any place on land, whether within his Majesty's dominions or without; and that in case the principal felony shall have been committed within the body of any county, and the offence

If the Offences be committed in different Counties, Accessory may be tried in either. (2 & 3 Ed. 6. c. 24. s. 4. 43 G. 3. c. 113. s. 5.)

of counselling procuring or commanding shall have been committed within the body of any other county, the last-mentioned offence may be inquired of, tried, determined, and punished in either of such counties: Provided always, that no person who shall be once duly tried for any such offence, whether as an accessory before the fact or as for a substantive felony, shall be liable to be again indicted or tried for the same offence.

Accessory after the Fact may be tried by any Court which has Jurisdiction to try the principal Felon.

X. And, for the more effectual prosecution of accessories after the fact to felony, be it enacted, That if any person shall become an accessory after the fact to any felony, whether the same be a felony at common law, or by virtue of any statute or statutes made or to be made, the offence of such person may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if the Act, by reason whereof such person shall have become an accessory, had been committed at the same place as the principal felony, although such Act may have been committed either on the high seas or at any place on land, whether within his Majesty's dominions or without; and that in case the principal felony shall have been committed within the body of any county, and the Act by reason whereof any person shall have become accessory, shall have been committed within the body of any other county, the offence of such accessory may be inquired of, tried determined and punished in either of such counties: Provided always that no person who shall be once duly tried for any offence of being an accessory, shall be liable to be again indicted or tried for the same offence.

If the Offences be committed in different Counties, Accessory may be tried in either. (2 & 3 Ed. 6, c. 34. s. 4.)

Accessory may be prosecuted after Conviction of the Principal, though the Principal be not attainted, &c. (1 Anne, st. 2. c. 9. s. 1.)

XI. And, in order that all accessories may be convicted and punished in cases where the principal felon is not attainted, be it enacted, That if any principal offender shall be in anywise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall die or be admitted to the benefit of clergy, or pardoned, or otherwise delivered before attainder; and every such accessory shall suffer the same punishment, if he or she be in anywise convicted, as he or she should have suffered if the principal had been attainted.

Offences committed on the Boundaries of Counties may be tried in either County. (59 G. 3. c. 96, s. 2.)

XII. And, for the more effectual prosecution of offences committed near the boundaries of counties or partly in one county and partly in another, be it enacted, That where any felony or misdemeanor shall be committed on the boundary or boundaries of two or more counties, or within the distance of five hundred yards of any such boundary or boundaries, or shall be begun in one county and completed in another, every such felony or misdemeanor may be dealt with, inquired of, tried, determined, and punished in any of the said counties, in the same manner as if it had been actually and wholly committed therein.

Offences committed during a Journey or Voyage may be tried in any County through which the Coach, &c. passed. (59 G. 3. c. 27. and c. 96.)

XIII. And, for the more effectual prosecution of offences committed during journies from place to place, be it enacted, That where any felony or misdemeanor shall be committed on any person or on or in respect of any property in or upon any coach, waggon, cart, or other carriage whatever employed in any journey, or shall be committed on any person or on or in respect of any property on board any vessel whatever employed on any voyage or journey upon any navigable river canal or inland navigation, such felony or misdemeanor may be dealt with, inquired of, tried, determined, and punished in any county through any part whereof such coach, waggon, cart, carriage, or vessel shall have passed in the course of the journey or voyage during which such felony or misdemeanor shall have been committed, in the same manner as if it had been actually committed in such county; and in all cases where the side centre or other part of any highway, or the side, bank, centre, or other part of any such river canal or navigation, shall constitute the boundary of any two counties, such felony or misdemeanor may be dealt with, inquired of, tried, determined, and punished in either of the said counties through or adjoining to or by the boundary of any part whereof such coach, waggon, cart, carriage, or vessel shall have passed, in the course of the journey or voyage

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during which such felony or misdemeanor shall have been committed, in the same manner as if it had been actually committed in such county.

In Indictments for Offences committed on the Property of Partners, it may be laid in any one Partner, by Name, and others. (56 G. 3. c. 78. 1 G. 4. c. 102. 6 G. 4. c. 56.)

XIV. And in order to remove the difficulty of stating the names of all the owners of property in the case of partners and other joint owners, be it enacted, That in any indictment or information for any felony or misdemeanor, wherein it shall be requisite to state the ownership of any property whatsoever, whether real or personal, which shall belong to or be in the possession of more than one person, whether such persons be partners in trade, joint tenants, parceners, or tenants in common, it shall be sufficient to name one of such persons, and to state such property to belong to the person so named, and another or others, as the case may be; and whenever in any indictment or information for any felony or misdemeanor, it shall be necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision shall be construed to extend to all joint stock companies and trustees.

Property belonging to Counties, &c. may be laid in the Inhabitants of the County. (13 G. 3. c. 59. s. 3.)

XV. And, with respect to the property of counties ridings and divisions, be it enacted, That in any indictment or information for any felony, or misdemeanor committed in, upon, or with respect to any bridge, court, gaol, house of correction, infirmary, asylum, or other building, erected or maintained in whole or in part at the expence of any county riding or division, or on or with respect to any goods or chattels whatsoever, provided for at the expence of any county riding or division, to be used for making altering, or repairing any bridge, or any highway at the ends thereof, or any court or other such building as aforesaid, or to be used in or with any such court or other building, it shall be sufficient to state any such property, real or personal, to belong to the inhabitants of such county riding or division; and it shall not be necessary to specify the names of any of such inhabitants.

Property ordered for the Use of the Poor of Parishes, &c. may be laid in the Overseers. (55 G. 3. c. 137. s. 1.)

XVI. And, with respect to the property of parishes townships and hamlets, be it enacted, That in any indictment or information for any felony or misdemeanor committed in, upon, or with respect to any workhouse or poorhouse, or on or with respect to any goods or chattels whatsoever, provided for the use of the poor of any parish or parishes, township or townships, hamlet or hamlets, place or places, or to be used in any workhouse or poorhouse in or belonging to the same, or by the master or mistress of such workhouse or poorhouse, or by any workmen or servants employed therein, it shall be sufficient to state any such property to belong to the overseers of the poor for the time being of such parish or parishes, township or townships, hamlet or hamlets, place or places, and it shall not be necessary to specify the names of all or any of such overseers; and in any indictment or information for any felony or misdemeanor committed on or with respect to any materials tools or implements provided for making altering or repairing any highway within any parish, township, hamlet, or place, otherwise than by the trustees or commissioners of any turnpike road, it shall be sufficient to aver that any such things are the property of the surveyor or surveyors of the highways for the time being of such parish, township, hamlet, or place, and it shall not be necessary to specify the name or names of any such surveyor or surveyors.

Materials, &c. for repairing Highways may be laid to be the Property of the Surveyor of Highways.

Property of Turnpike Trustees may be laid in the Trustees. (3 G. 4. c. 126. s. 60.)

XVII. And with respect to property under turnpike trusts, be it enacted, That in any indictment or information for any felony or misdemeanor committed on or with respect to any house, building, gate, machine, lamp, board, stone, post, fence, or other thing, erected or provided in pursuance of any Act of Parliament for making any turnpike road, or any of the conveniencies or appurtenances thereunto respectively belonging, or any materials tools or implements provided for making altering or repairing any such road, it shall be sufficient to state any such property to belong to the trustees or commissioners of such road, and it shall not be necessary to specify the names of any of such trustees or commissioners.

In Indictments for Offences committed on Sewers, the Property may be laid in the Commissioners.

XVIII. And, with respect to property under commissioners of sewers, be it enacted, That in any indictment or information for any felony or

misdemeanor committed on or with respect to any sewer or other matter within or under the view cognizance or management of any commissioners of sewers, it shall be sufficient to state any such property to belong to the commissioners of sewers within or under whose view cognizance or management any such things shall be, and it shall not be necessary to specify the names of any of such commissioners.

Indictment not to abate by dilatory Plea of Misnomer, &c.

XIX. And for preventing abuses from dilatory pleas, be it enacted, That no indictment or information shall be abated by reason of any dilatory plea of misnomer or of want of addition, or of wrong addition of the party offering such plea, if the court shall be satisfied by affidavit or otherwise of the truth of such plea; but in such case the court shall forthwith cause the indictment or information to be amended according to the truth, and shall call upon such party to plead thereto, and shall proceed as if no such dilatory plea had been pleaded.

What Defects shall not vitiate an Indictment after Verdict or otherwise.

XX. And that the punishment of offenders may be less frequently intercepted in consequence of technical niceties, be it enacted, That no judgment upon any indictment or information for any felony or misdemeanor, whether after verdict or outlawry, or by confession default or otherwise, shall be stayed or reversed for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute," instead of the words "against the form of the statutes," or *vice versâ*, nor for that any person or persons mentioned in the indictment or information is or are designated by a name of office or other descriptive appellation instead of his her or their proper name or names, nor for omitting to state the time at which the offence was committed, in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment or exhibiting the information, or on an impossible day, or on a day that never happened, nor for want of a proper or perfect venue, where the court shall appear by the indictment or information to have had jurisdiction over the offence.

What shall not be sufficient to stay or reverse Judgment after the Verdict.

XXI. And be it further enacted, That no judgment after verdict upon any indictment or information for any felony or misdemeanor shall be stayed or reversed for want of a similiter, nor by reason that the jury process has been awarded to a wrong officer upon an insufficient suggestion, nor for any misnomer or misdescription of the officer returning such process, or of any of the jurors, nor because any person has served upon the jury who has not been returned as a juror by the sheriff or other officer: and that where the offence charged has been created by any statute, or subjected to a greater degree of punishment, or excluded from the benefit of clergy by any statute, the indictment or information shall after verdict be held sufficient to warrant the punishment prescribed by the statute if it describe the offence in the words of the statute.

Courts may order Payment or the Expences of Prosecutions in all Cases of Felony. (58 G. 3. c. 70. s. 4.)

XXII. And, with regard to the payment of the expences of prosecutions for felony, be it enacted, That the court before which any person shall be prosecuted or tried for any felony is hereby authorized and empowered, at the request of the prosecutor or of any other person, who shall appear on recognizance or subpœna to prosecute or give evidence against any person accused of any felony, to order payment unto the prosecutor of the costs and expences which such prosecutor shall incur in preferring the indictment, and also payment to the prosecutor and witnesses for the prosecution, of such sums of money as to the court shall seem reasonable and sufficient to reimburse such prosecutor and witnesses for the expences they shall have severally incurred in attending before the examining magistrate or magistrates and the grand jury, and in otherwise carrying on such prosecution, and also to compensate them for their trouble and loss of time therein; and, although no bill of indictment be preferred, it shall still be lawful for the court, where any person shall, in the opinion of the court, *bonâ fide* have attended the court in obedience to any such recognizance

Allowance to Persons attending on Recognizance, where no Bill is preferred. (18 G. 3. c. 19. s. 8.)

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or subpœna, to order payment unto such person of such sum of money as to the court shall seem reasonable and sufficient to reimburse such person for the expences which he or she shall have *boná fide* incurred by reason of attending before the examining magistrate or magistrates, and by reason of such recognizance or subpœna, and also to compensate such person for trouble and loss of time; and the amount of the expences of attending before the examining magistrate or magistrates, and the compensation for trouble and loss of time therein, shall be ascertained by the certificate of such magistrate or magistrates, granted before the trial or attendance in court if such magistrate or magistrates shall think fit to grant the same; and the amount of all the other expences, and compensation, shall be ascertained by the proper officer of the court, subject nevertheless to the regulations to be established in the manner herein-after mentioned.

Courts may order Payment of the Expences of Prosecution in certain Cases of Misdemeanor.

XXIII. And whereas for want of power in the court to order payment of the expences of any prosecution for a misdemeanor, many individuals are deterred by the expence from prosecuting persons guilty of misdemeanors, who thereby escape the punishment due to their offences; for remedy thereof, be it enacted, That where any prosecutor or other person shall appear before any court on recognizance or subpœna, to prosecute or give evidence against any person indicted of any assault with intent to commit felony, of any attempt to commit felony, of any riot, of any misdemeanor, for receiving any stolen property knowing the same to have been stolen, of any assault upon a peace officer in the execution of his duty, or upon any person acting in aid of such officer, of any neglect or breach of duty as a peace officer, of any assault committed in pursuance of any conspiracy to raise the rate of wages, of knowingly and designedly obtaining any property by false pretences, of wilful and indecent exposure of the person, of wilful and corrupt perjury, or of subornation of perjury, every such court is hereby authorized and empowered to order payment of the costs and expences of the prosecutor and witnesses for the prosecution, together with a compensation for their trouble and loss of time, in the same manner as courts are herein-before authorized and empowered to order the same in cases of felony; and, although no bill of indictment be preferred, it shall still be lawful for the court where any person shall have *boná fide* attended the court, in obedience to any such recognizance, to order payment of the expences of such person, together with a compensation for his or her trouble and loss of time, in the same manner as in cases of felony: Provided, that in cases of misdemeanor the power of ordering the payment of expences and compensation shall not extend to the attendance before the examining magistrate.

Order for Payment to be made out by Clerk of Assize, &c., and paid by County Treasurer. (58 G. 3. c. 70. s. 6. 18 G. 3. c. 19. s. 8.)

XXIV. And be it further enacted, That every order for payment to any prosecutor or other person as aforesaid shall be forthwith made out and delivered by the proper officer of the court unto such prosecutor or other person, upon being paid for the same the sum of one shilling for the prosecutor and sixpence for each other person, and no more; and except in the cases herein-after provided for, shall be made upon the treasurer of the county riding or division in which the offence shall have been committed, or shall be supposed to have been committed, who is hereby authorized and required, upon sight of every such order, forthwith to pay to the person named therein, or to any one duly authorized to receive the same on his or her behalf, the money in such order mentioned, and shall be allowed the same in his accounts.

How the Expences shall be paid in Places not contributing to the County Rate. (58 G. 3. c. 70. s. 9 & 10.)

XXV. And whereas felonies and such misdemeanors as are herein-before enumerated may be committed in liberties, franchises, cities, towns, and places which do not contribute to the payment of any county rate, some of which raise a rate in the nature of a county rate, and others have neither any such rate nor any fund applicable to similar purposes, and it is just that such liberties, franchises, cities, towns and places should be charged with all costs expences and compensations ordered by virtue of this Act, in respect of felonies and such misdemeanors committed therein respectively; be it therefore enacted, That all sums directed to be paid by virtue of this Act, in respect of felonies and of such misdemeanors as

aforesaid, committed or supposed to have been committed in such liberties, franchises, cities, towns and places, shall be paid out of the rate in the nature of a county rate, or out of any fund applicable to similar purposes, where there is such a rate or fund, by the treasurer or other officer having the collection or disbursement of such rate or fund; and where there is no such rate or fund in such liberties, franchises, cities towns, or places, shall be paid out of the rate or fund for the relief of the poor of the parish, township, district, or precinct therein, where the offence was committed or supposed to have been committed, by the overseers or other officers having the collection or disbursement of such last-mentioned rate or fund; and the order of court shall in every such case be directed to such treasurer overseers or other officers respectively, instead of the treasurer of the county riding or division, as the case may require.

Quarter Sessions to make Regulations as to Costs and Expences. (18 G. 3. c. 19. s. 9.)

XXVI. And, for the better regulation of costs and expences in the cases aforesaid, and for preventing abuses in respect thereof, be it enacted, That it shall be lawful for the justices of the peace of any county riding or division, or of any liberty, franchise, city, town or place, chargeable with costs and expences under the provision aforesaid, in quarter sessions assembled, to establish, and from time to time to alter such regulations as to the rate of any costs and expences thereafter to be allowed by virtue of this Act, as to them shall seem just and reasonable; which regulations having received the approbation and signature of one justice of gaol delivery or of great sessions for the county wherein any such regulations shall have been established, shall be binding on all persons whatsoever.

For Payment of Expences in Prosecutions in Court of Admiralty.

XXVII. And, for enabling the High Court of Admiralty to order the payment of the costs and expences of prosecutors and witnesses, and compensation for their trouble and loss of time, in cases in which other courts have a like power under this Act, be it enacted, That it shall be lawful for the judge of the said court of admiralty, in every case of felony, and in every case of misdemeanor of the denominations herein-before enumerated, committed upon the high seas, to order the assistant to the counsel for the affairs of the admiralty and navy to pay such costs expences and compensation to prosecutors and witnesses, in like manner as other courts may order the treasurer of the county to pay the same; and such assistant is hereby authorized and required, upon sight of every such order, forthwith to pay to the person named therein, or to any one duly authorized to receive the same on his or her behalf, the money in such order mentioned, and shall be allowed the same in his accounts.

Courts may order Compensation to those who have been active in the Apprehension of certain Offenders. (4 W. & M. c. 8. s. 1. 10 & 11 W. 3. c. 23. s. 1, 2. 5 Ann. c. 31. s. 1. 14 G. 2. c. 6. 58 G. 3. c. 70. s. 4 & 5.)

XXVIII. And, for the better remuneration of persons who have been active in the apprehension of certain offenders, be it enacted, That where any person shall appear to any court of oyer and terminer, gaol delivery, superior criminal court of a county palatine, or court of great sessions, to have been active in or towards the apprehension of any person charged with murder, or with feloniously and maliciously shooting at, or attempting to discharge any kind of loaded fire arms at any other person, or with stabbing cutting or poisoning, or with administering any thing to procure the miscarriage of any woman, or with rape, or with burglary or felonious house-breaking, or with robbery on the person, or with arson, or with horse stealing, bullock stealing, or sheep stealing or with being accessory before the fact to any of the offences aforesaid, or with receiving any stolen property knowing the same to have been stolen, every such court is hereby authorized and empowered, in any of the cases aforesaid, to order the sheriff of the county in which the offence shall have been committed to pay to the person or persons who shall appear to the court to have been active in or towards the apprehension of any person charged with any of the said offences, such sum or sums of money as to the court shall seem reasonable and sufficient to compensate such person or persons for his her or their expences exertions and loss of time in or towards such apprehension; and where any person shall appear to any court of sessions of the peace, to have been active in or towards the apprehension of any party charged with receiving stolen property knowing the same to have been stolen, such court shall have power to order compensation to such person in the same manner as the other courts herein-before mentioned:

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Provided always, that nothing herein contained shall prevent any of the said courts from also allowing to any such persons, if prosecutors or witnesses, such costs expences and compensation, as courts are by this Act empowered to allow to prosecutors and witnesses respectively.

Such Orders to be paid by the Sheriff, who may obtain immediate Repayment on Application to the Treasury. (58 G. 3. c. 70. s. 5. 3 G. I. c. 15. s. 4.)

XXIX. And be it further enacted, That every order for payment to any person in respect of such apprehension as aforesaid, shall be forthwith made out and delivered by the proper officer of the court unto such person, upon being paid for the same the sum of five shillings and no more; and the sheriff of the county for the time being is hereby authorized and required, upon sight of such order, forthwith to pay to such person, or to any one duly authorized on his or her behalf, the money in such order mentioned; and every such sheriff may immediately apply for repayment of the same to the commissioners of his Majesty's treasury, who upon inspecting such order, together with the acquittance of the person entitled to receive the money thereon, shall forthwith order repayment to the sheriff of the money so by him paid, without any fee or reward whatsoever.

If any Man is killed in attempting to take certain Offenders, the Court may order Compensation to his Family. (58 G. 3. c. 70. s. 3.)

XXX. And be it further enacted, That if any man shall happen to be killed in endeavouring to apprehend any person who shall be charged with any of the offences herein-before last-mentioned, it shall be lawful for the court before whom such person shall be tried to order the sheriff of the county to pay to the widow of the man so killed, in case he shall have been married, or to his child or children in case his wife shall be dead, or to his father or mother in case he shall have left neither wife nor child, such sum of money as to the court in its discretion shall seem meet; and the order for payment of such money shall be made out and delivered by the proper officer of the court unto the party entitled to receive the same, or unto some one on his or her behalf, to be named in such order by the direction of the court; and every such order shall be paid by and repaid to the sheriff in the manner herein-before mentioned.

Recognizances in certain Cases not to be estreated without a Judge's Order.

XXXI. And whereas the practice of indiscriminately estreating recognizances for the appearance of persons to prosecute or give evidence, or to answer for a common assault, or in the other cases herein-after specified, has been found in many instances productive of hardship to persons who have entered into the same; be it therefore enacted, That in every case where any person bound by recognizance for his or her appearance, or for whose appearance any other person shall be so bound to prosecute or give evidence in any case of felony or misdemeanor, or to answer for any common assault or to articles of the peace, or to abide an order in bastardy, shall therein make default, the officer of the court by whom the estreats are made out shall and is hereby required to prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which every such person, or his or her surety, was so bound, together with the residence, trade, profession, or calling of every such person and surety, and shall in such list distinguish the principals from the sureties, and shall state the cause, if known, why each such person has not appeared, and whether by reason of the nonappearance of such person the ends of justice have been defeated or delayed; and every such officer shall and is hereby required, before any such recognizance shall be estreated, to lay such list, if at a court of oyer and terminer or gaol delivery in any county besides *Middlesex* and *London*, or at a court of great sessions, or at one of the superior courts of the counties palatine, before one of the justices of those courts respectively; if at a court wherein a recorder or other corporate officer is the judge or one of the judges, before such recorder or other corporate officer; and if at a session of the peace, before the chairman or two other justices of the peace who shall have attended such court, who are respectively authorized and required to examine such list, and to make such order touching the estreating or putting in process of any such recognizance as shall appear to them respectively to be just; and it shall not be lawful for the officer of any court to estreat or put in process any such recognizance without the written order of the justice, recorder, corporate officer, chairman or justices of the peace before whom respectively such list shall have been laid.

No. XVI. 7 Geo. IV. c. 64.

XXXII. And be it further enacted, That from and after the commencement of this Act, so much of a statute made at *Westminster* in the third year of the reign of King *Edward* the First, as provides what prisoners shall not be replevisable and what shall be so; and a statute made in the seventh year of the reign of King *Henry* the Fifth; and so much of a statute made in the ninth year of the same reign, as relates to indictments and appeals laid in a non-existing place; and so much of a statute made in the eighteenth year of the reign of King *Henry* the Sixth, as perpetuates the said provision of the statute last referred to; and so much of a statute made in the twenty-third year of the same reign, as relates to sheriffs and other officers and ministers therein mentioned letting out of prison upon sureties any person in custody upon indictment; and an Act passed in the first year of the reign of King *Richard* the Third, intituled "An Act for "bailing of Persons suspected of Felony;" and so much of an Act passed in the third year of the reign of King *Henry* the Seventh, intituled "An "Act that Justice of the Peace may take Bail," as relates to bail or mainprize; and an Act passed in the twenty-fifth year of the reign of King *Henry* the Eighth, intituled "An Act for standing mute, and peremptory "Challenge;" and so much of an Act passed in the thirty-second year of the same reign, intituled "For the Continuation of Acts," as perpetuates the said last-mentioned Act; and an Act passed in the second and third years of the reign of King *Edward* the Sixth, intituled "An Act for the "Trial of Murders and Felonies in several Counties;" and an Act passed in the fifth and sixth years of the same reign, intituled "An Act to take "away the Benefit of Clergy from such as rob in one Shire and fly into "another;" and an Act passed in the first and second years of the reign of King *Philip* and Queen *Mary*, intituled "An Act appointing an Order "to Justices of Peace for the Bailment of Prisoners;" and an Act passed in the second and third years of the same reign, intituled "An Act to take "Examination of Prisoners suspected of Manslaughter or Felony;" and an Act passed in the fourth year of the reign of King *William* and Queen *Mary*, intituled "An Act for encouraging the apprehending of Highway-"men;" and so much of an Act passed in the tenth and eleventh years of the reign of King *William*, intituled "An Act for the better apprehend-"ing prosecuting and punishing of Felons that commit Burglary House-"breaking or Robbery in Shops, Warehouses, Coach-houses, or Stables, "or that steal Horses," as relates to the certificates therein mentioned; and so much of an Act passed in the first year of the reign of Queen *Anne*, intituled "An Act for punishing of Accessories to Felonies and Re-"ceivers of Stolen Goods; and to prevent the wilful burning and de-"stroying of Ships," as relates to accessories; and an Act passed in the sixth year of the same reign, intituled "An Act for the encouraging the "Discovery and apprehending of House-breakers," except the special provision affecting the sheriffs and under sheriffs of *London* and *Middlesex*; and an Act passed in the sixth year of the reign of King *George* the First, intituled "An Act for the further preventing Robbery Burglary and other "Felonies; and for the more effectual Transportation of Felons;" and so much of an Act passed in the twenty-fifth year of the reign of King *George* the Second, intituled "An Act for the better preventing Thefts and Rob-"beries; and for regulating places of public Entertainment, and punish-"ing Persons keeping disorderly Houses," as relates to Payments to Prosecutors in Cases of Felony; and so much of an Act passed in the twenty-seventh year of the same reign, intituled "An Act for the better "securing to Constables and others the Expences of conveying Offenders "to Gaol, and for allowing the Charges of poor Persons bound to give "Evidence against Felons," as relates to the allowance of compensation to poor persons appearing on recognizance to give evidence against any one accused of felony; and so much of an Act passed in the eighteenth year of the reign of King *George* the Third, intituled "An Act for the "Payment of Costs to Parties on Complaints determined before Justices "of the Peace out of Sessions; for the Payment of the Charges of Con-"stables in certain Cases; and for the more effectual Payment of Charges

Repeal of the Acts.

3 Ed. 1. c. 15.
7 H. 5.
9 H. 5. c. 1.
18 H. 6. c. 12.
23 H. 6. c. 9.
1 R. 3. c. 3.
3 H. 7. c. 3.
25 H. 8. c. 3.
32 H. 8. c. 3.
2 & 3 Ed. 6. c. 24.
5 & 6 Ed. 6. c. 10.
1 & 2 P. & M. c. 13.
2 & 3 P. & M. c. 10.
4 W. & M. c. 8.
10 & 11 W. 3. c. 23.
1 Anne, st. 2. c. 9. s. 1.
Vulgo, 5 Anne, c. 31.
6 G. 1. c. 23.
25 G. 2. c. 36. s. 11.
27 G. 2. c. 3. s. 3.
18 G. 3. c. 19. s. 7 & 8.

No. XVI. 7 Geo. IV. c. 64.

"to Witnesses and Prosecutors of any Larceny or other Felony," as relates to payments and allowances to prosecutors and other persons appearing on recognizance or *subpœna* to give evidence as to any felony, and to rules and regulations touching the costs and charges to be allowed to such prosecutors and persons; and so much of an Act passed in the forty-third year of the same reign, intituled "An Act for remedying certain Defects "in the Laws relative to the building and repairing of County Bridges "and other Works maintained at the Expence of the Inhabitants of Coun- "ties in *England*," as relates to laying the property in the surveyor of county bridges in any indictment; and so much of an Act passed in the same year, for providing, among other things, for the more convenient trial of accessories in felonies, as relates to the trial of accessories, except the special provisions therein contained as to accessories before the fact in murder; and an Act passed in the fifty-sixth year of the same reign, intituled "An Act for removing Difficulties in the Conviction of Offenders "stealing Property from Mines;" and an Act passed in the fifty-eighth year of the same reign, intituled "An Act for repealing such Parts of "several Acts as allow pecuniary and other Rewards upon the Conviction "of Persons for Highway Robbery and other Crimes and Offences; and "for facilitating the Means of prosecuting Persons accused of Felony and "other Offences," except so much thereof as relates to disorderly houses; and an Act passed in the fifty-ninth year of the same reign, intituled "An "Act to facilitate the Trial of Felonies committed on board Vessels em- "ployed on Canals Navigable Rivers and Inland Navigations;" and another Act passed in the same year, intituled "An Act to facilitate the Trials "of Felonies committed on Stage Coaches and Stage Waggons and other "such Carriages, and of Felonies committed on the Boundaries of Coun- "ties;" and an Act passed in the first year of his present Majesty's reign, for making general the provisions of the said recited Act of the fifty-sixth year of the reign of King *George* the Third; and so much of an Act passed in the third year of the present reign, intituled "An Act for the further "and more adequate Punishment of Persons convicted of Manslaughter, "and of Servants convicted of robbing their Masters, and of Accessories "before the Fact to Grand Larceny and certain other Felonies," as provides that accessories before the fact may be indicted for a misdemeanor; and so much of another Act passed in the same year, intituled "An Act "to amend the general Laws now in being for regulating Turnpike Roads "in that Part of *Great Britain* called *England*," as relates to stating in any indictment any things to be the property of the clerk to the trustees or commissioners, as therein mentioned; and an Act passed in the sixth year of the present reign, intituled "An Act to amend Two Acts for re- "moving Difficulties in the Conviction of Offenders stealing Property in "Mines and from Corporate Bodies," shall be and the same are hereby repealed, except so far as any of the said Acts relate to *Scotland* or *Ireland*, or repeal the whole or any part of any other Acts, and except as to offences committed before the passing of this Act, which shall be dealt with and punished as if this Act had not been passed.

43 G. 3. c. 59. s. 3.

43 G. 3. c. 113. s. 5.

56 G. 3. c. 73.

58 G. 3. c. 70.

59 G. 3. c. 27.

59 G. 3. c. 96.

1 G. 4. c. 102.

3 G. 4. c. 38.

3 G. 4. c. 126. s. 60.

6 G. 4. c. 56.

[No. XVII.] 7 & 8 George IV. c. 28.—An Act for further improving the Administration of Justice in Criminal Cases in *England*.—[21st *June* 1827.]

No. XVII. 7 & 8 G. IV. c. 28.

WHEREAS trials for criminal offences in that part of the United Kingdom called *England* are attended with some forms which frequently impede the due administration of justice, and it is therefore expedient to abolish such forms, and also to abolish the benefit of clergy, and to make better provision for the punishment of offenders in certain cases: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of

the same, That if any person, not having privilege of peerage being arraigned upon any indictment for treason felony or piracy, shall plead thereto a plea of "Not Guilty," he shall by such plea, without any further form, be deemed to have put himself upon the country for trial; and the court shall, in the usual manner, order a jury for the trial of such person accordingly. "Not Guilty," without more, shall put the Prisoner on his

A Plea of Trial by Jury.

II. And be it enacted, That if any person, being arraigned upon or charged with any indictment or information for treason, felony, piracy, or misdemeanor, shall stand mute of malice, or will not answer directly to the indictment or information, in every such case it shall be lawful for the court, if it shall so think fit, to order the proper officer to enter a plea of "Not Guilty" on behalf of such person; and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

If he refuses to plead, Court may order a Plea of "Not Guilty" to be entered.

III. And be it enacted, That if any person, indicted for any treason felony or piracy, shall challenge peremptorily a greater number of the men returned to be of the jury than such person is entitled by law so to challenge in any of the said cases, every peremptory challenge beyond the number allowed by law in any of the said cases shall be entirely void, and the trial of such person shall proceed as if no such challenge had been made.

Every Challenge beyond the legal Number shall be void.

IV. And be it enacted, That no plea setting forth any attainder shall be pleaded in bar of any indictment, unless the attainder be for the same offence as that charged in the indictment.

Attainder of another Crime not pleadable.

V. And be it enacted, That where any person shall be indicted for treason or felony, the jury empannelled to try such person shall not be charged to inquire concerning his lands tenements or goods, nor whether he fled for such treason or felony.

Jury shall not inquire of Prisoner's Lands, &c. nor whether he fled.

VI. And be it enacted, That benefit of clergy, with respect to persons convicted of felony, shall be abolished; but that nothing herein contained shall prevent the joinder in any indictment of any counts which might have been joined before the passing of this Act.

Benefit of Clergy abolished.

VII. And be it enacted, That no person convicted of felony shall suffer death, unless it be for some felony which was excluded from the benefit of clergy before or on the first day of the present session of Parliament, or which hath been or shall be made punishable with death by some statute passed after that day.

What Felonies only shall be capital.

VIII. And be it enacted, That every person convicted of any felony, not punishable with death, shall be punished in the manner prescribed by the statute or statutes specially relating to such felony; and that every person convicted of any felony, for which no punishment hath been or hereafter may be specially provided, shall be deemed to be punishable under this Act, and shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years; and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Felonies not capital punishable under the Acts, if any, relating thereto; otherwise under this Act.

IX. And, with regard to the place and mode of imprisonment for all offences punishable under this Act, be it enacted, That where any person shall be convicted of any offence punishable under this Act, for which imprisonment may be awarded, it shall be lawful for the court to sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or house of correction, and also to direct that the offender shall be kept in solitary confinement for the whole or any portion or portions of such imprisonment, or of such imprisonment with hard labour, as to the court in its discretion shall seem meet.

The Court may order hard Labour or solitary Confinement as Part of the Sentence of Imprisonment.

X. And be it enacted, That wherever sentence shall be passed for felony on a person already imprisoned under sentence for another crime, it shall be lawful for the court to award imprisonment for the subsequent offence, to commence at the expiration of the imprisonment to which such person shall have been previously sentenced; and where such person shall be

If a Person under Sentence for another Crime is convicted of Felony, the Court may pass a Second Sentence, to commence after the Expiration of the First

No. XVII. 7 & 8 G. IV. c. 28.

already under sentence either of imprisonment or of transportation, the court, if empowered to pass sentence of transportation, may award such sentence for the subsequent offence, to commence at the expiration of the imprisonment or transportation to which such person shall have been previously sentenced, although the aggregate term of imprisonment or transportation respectively may exceed the term for which either of those punishments could be otherwise awarded.

Punishment for a subsequent Felony.

XI. And whereas it is expedient to provide for the more exemplary punishment of offenders who commit felony after a previous conviction for felony, whether such conviction shall have taken place before or after the commencement of this Act; be it therefore enacted, That if any person shall be convicted of any felony, not punishable with death, committed after a previous conviction for felony, such person shall, on such subsequent conviction, be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment; and in an indictment for any such felony committed after a previous conviction for felony, it shall be sufficient to state that the offender was at a certain time and place convicted of felony, without otherwise describing the previous felony; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous felony, purporting to be signed by the clerk of the court, or other officer having the custody of the records of the court where the offender was first convicted, or by the deputy of such clerk or officer (for which certificate a fee of six shillings and eight-pence, and no more, shall be demanded or taken), shall upon proof of the identity of the person of the offender, be sufficient evidence of the first conviction, without proof of the signature or official character of the person appearing to have signed the same; and if any such clerk officer or deputy shall utter a false certificate of any indictment and conviction for a previous felony, or if any person, other than such clerk officer or deputy, shall sign any such certificate as such clerk officer or deputy, or shall utter any such certificate with a false or counterfeit signature thereto, every such offender shall be guilty of felony, and, being lawfully convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years; and, if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Form of Indictment for the subsequent Felony.

What shall be sufficient Proof of the First Conviction.

Uttering false Certificate of Conviction.

Admiralty Offences.

XII. And be it enacted, That all offences prosecuted in the High Court of Admiralty of *England* shall, upon every first and subsequent conviction, be subject to the same punishments, whether of death or otherwise, as if such offences had been committed upon the land.

Effect of a free or conditional Pardon to a Convict.

XIII. And be it declared and enacted, That where the King's Majesty shall be pleased to extend his royal mercy to any offender convicted of any felony punishable with death or otherwise, and by warrant under his royal sign manual, countersigned by one of his principal secretaries of state, shall grant to such offender either a free or a conditional pardon, the discharge of such offender out of custody in the case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon under the great seal for such offender, as to the felony for which such pardon shall be so granted: Provided always, that no free pardon, nor any such discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any felony committed after the granting of any such pardon.

Proviso.

Rule for the Interpretation of all Criminal Statutes.

XIV. And be it enacted, That wherever this or any other statute relating to any offence, whether punishable upon indictment or summary conviction, in describing or referring to the offence or the subject matter on or with respect to which it shall be committed, or the offender or the

party affected or intended to be affected by the offence, hath used or shall use words importing the singular number or the masculine gender only, yet the statute shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and wherever any forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate in every case where such body shall be the party aggrieved. No. XVII. 7 & 8 G. IV. c. 28.

XV. And be it enacted, That this Act shall commence and take effect on the first day of *July* one thousand eight hundred and twenty-seven. Commencement of this Act.

XVI. Provided always, and be it enacted, That nothing herein contained shall extend to *Scotland* or *Ireland*. Not to extend to Scotland or Ireland.

[No. XVIII.] 9 George IV. c. 53.—An Act to repeal several Acts and Parts of Acts in force in *Ireland*, relating to Bail in Cases of Felony, and to certain Proceedings in Criminal Cases, and to the Benefit of Clergy, and to Larceny and other Offences connected therewith, and to malicious Injuries to property.—[15th *July* 1828.]

No. XVIII. 9 Geo. IV. c. 53.

WHEREAS it is expedient that provisions should be made for the improving the administration of justice in *Ireland*, by amending the laws in force there, relating to the punishment of felony, and to bail in cases of felony, and to examinations informations and other proceedings previous to trial for criminal offences, and to larceny, and other offences of stealing, and to burglary robbery and threats for the purpose of robbery or of extortion, and to the embezzlement of property, and to the obtaining property by false pretences, and to the receipt of stolen property, and to malicious injuries to property; and it is therefore requisite that all existing statutes and Acts, and parts of statutes and Acts, in force in *Ireland*, relating to the several matters and things aforesaid, and relating to the benefit of clergy, should be repealed; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Tempo al, and Commons, in this present Parliament assembled, and by the authority of the same, That the several statutes and Acts and parts of statutes and Acts, herein-after mentioned, shall continue in force in *Ireland* until and throughout the thirty-first day of *August* one thousand eight hundred and twenty-eight and no longer; and that from and after the said thirty-first day of *August*, one thousand eight hundred and twenty-eight, the several statutes and Acts, and parts of statutes and Acts, herein-after mentioned, specified, and set forth, shall cease and determine, and shall be repealed (except only so far as is hereinafter excepted and provided for); that is to say, the several statutes and Acts and parts of statutes and Acts, passed in the Parliament of *England*, herein-after specified and set forth, and which by an Act passed in the Parliament of *Ireland* in the tenth year of the reign of King *Henry* the Seventh, intituled "An Act confirming all the Statutes "made in *England*," are in force in *Ireland*, namely, so much of a charter or statute made in the ninth year of the reign of King *Henry* the Third commonly called *Charta de Foresta*, as relates to the punishment for taking the King's venison; so much of a statute made at *Westminster* in the third year of the reign of King *Edward* the First, as relates to clerks taken for guilty of felony, and to trespassers in parks and ponds; so much of the same statute as provides what prisoners shall not be replevisable, and what shall be so; a statute made in the twenty-first year of the same reign, intituled *Statutum de Malefactoribus in Parcis;* an ordinance made in the thirty-third year of the reign of King *Edward* the First, commonly called *An Ordinance for Inquests;* so much of a statute

From and after the 31st August 1828, recited Acts and Parts of Acts made in the Parliaments of England, Ireland, and the United Kingdom, repealed; viz.

English Acts.
9 H. 3. st. 2. c. 10.
3 Edw. 1. c. 2. 15. & 20.
21 Edw. 1. st. 2.
33 Edw. 1.
1 Edw. 3. st. 1. c. 8.

No. XVIII. 9 Geo. IV. c. 53.

made in the first year of the reign of King *Edward* the Third, as relate to trespasses in the King's forest of vert and venison; so much of a statute made in the twenty-fifth year of the same reign, intituled "*Ordinatio* "*pro Clero*," as relates to clerks convicted of treasons or felonies, and to the arraignment of clerks; so much of a statute made in the thirty-fourth year, and of another statute made in the thirty-seventh year of the same reign, as relates to hawks; so much of a statute made in the seventh year of King *Henry* the Fifth, as relates to those that forge or make untrue charters or muniments; so much of a statute made in the ninth year of the same reign, as relates to indictments and appeals in a non-existing place; so much of a statute made in the eighth year of the reign of King *Henry* the sixth, as relates to the offences of stealing, taking away, withdrawing, or avoiding of any record or other like thing therein mentioned; so much of a statute made in the twenty-third year of the same reign, as relates to sheriffs, and other officers and ministers therein mentioned, letting out of prison upon sureties any person in custody upon indictment; so much of a statute made in the thirty-third year of the same reign, as relates to servants taking and spoiling the goods of their masters after their death; an Act passed in the first year of the reign of King *Richard* the Third, intituled "An Act for bailing of Persons suspected of Felony;" an Act passed in the first year of the reign of King *Henry* the Seventh, intituled "An Act against unlawful hunting in Forests and Parks;" so much of an Act passed in the third year of the same reign, intituled "An "Act that Justices of the peace may take Bail," as relates to bail or mainprize; an Act passed in the fourth year of the same reign, intituled "An Act to take away the Benefit of Clergy from certain Persons;" and also the following statutes and Acts and parts of statutes and Acts, passed in the Parliament of *Ireland*; that is to say, an Act passed in the third year of the reign of King *Edward* the Second, intituled "An Act to re- "strain great Lords from taking of Prises, Lodging, and Sojourning, against "the Will of the Owner;" an Act passed in the eighteenth year of the reign of King *Henry* the Sixth, intituled "An Act that no Lord or other "shall charge the King's subjects with Horses Horsemen or Footmen, "without their good Wills;" the offender a traitor; an Act passed in the thirty-fifth year of the same reign, intituled "An Act that every Man "shall answer for the Offence of his Sons, as the Offender ought to do, "saving Punishment of Death;" an Act passed in the same thirty-fifth year of the same reign, intituled "An Act that Persons not amenable to "the Law shall not enter, distrain, rob, threaten, or kill any Tenants, for "any Lands or Tenements, contrary to the Common Law, but shall first "show their title to the Governor and Council, and thereupon have Licence "to distrain or enter in peaceable Manner;" an Act passed in the fifteenth year of the reign of King *Edward* the Fourth, intituled "An Act prohi- "biting Distresses to be taken contrary to the Common Law;" an Act passed in the tenth year of the reign of King *Henry* the Seventh, intituled "An Act that no Peace nor War be made with any Man without a Li- "cence of the Governor;" an Act passed in the thirteenth year of the reign of King *Henry* the Eighth, intituled "An Act for burning of Corn "as well in Ricks in the Fields as in Villages and Towns;" an Act passed in the twenty-eighth year of the same reign, intituled "An Act how Per- "sons robbed shall be restored to their Goods;" an Act passed in the first session of the thirty-third year of the same reign, intituled "An Act that "maketh it Felony to any Man to run away with his Master's Casket;" an Act passed in the session of Parliament holden in the third and fourth years of the reign of King *Philip* and Queen *Mary*, intituled "An Act "that the Owners of Goods stolen may be restored thereunto;" an Act passed in the session of Parliament holden in the eleventh twelfth and thirteenth years of the reign of King *James* the First, intituled "An Act "for the taking away of Clergy in certain Cases of Felonies, and for De- "liverie of Clerakes Convict without Purgation," save and except so far as the said Act relates to any felonious rape or ravishment; an Act passed in the second session of the tenth year of the reign of King *Charles* the First, intituled "An Act appointing an Order to Justices of Peace, touch-

25 Edw. 3. st. 6. (vulgo st. 3.) c. 4, 5.
34 Edw. 3. c. 22.
37 Edw. 3. c. 19.
7 H. 5.
9 H. 5. st. 5. c. 1.
8 H. 6. c. 12. s. 3.
23 H. 6. c. 9.
33 H. 6. c. 1.
1 R. 3. c. 3.
1 H. 7. c. 7.
3 H. 7. c. 3.
4 H. 7. c. 13.
Irish Acts.
3 Edw. 2. c. 1.
18 H. 6. c. 3.
35 H. 6. c. 2.
35 H. 6. c. 3.
15 Edw. 4. c. 1.
10 H. 7. c. 17.
13 H. 8. c. 1.
28 H. 8. c. 10.
33 H. 8. st. 1. c. 5.
3 & 4 P. & M. c. 6.
11, 12, 13 J. 1. c. 3.
10 C. 1. st. 2. c. 13.

No. XVIII. 9 Geo. IV. c. 53.

" ing the Bailment, committing and taking Examination of Prisoners, &c.;" an Act passed in the same session, intituled " An Act for the " Triall of Murders and Felonies committed in several Counties, &c.;" an Act passed in the same session, intituled " An Act to avoyde and prevent " diverse Misdemeanors in idle and lewd Persons in barking of Trees, " &c.;" an Act passed in the third session of the same year of the same reign, intituled "An Act concerning Women convicted of small Felonies;" an Act passed in the session of Parliament holden in the tenth and eleventh years of the same reign, intituled " An Act for the limiting of peremptory Challenges in Cases of Treason and Felonies, &c.;" an Act passed in the same years of the same reign, intituled " An Act against " ploughing by the Tayle, and pulling the Wooll off living Sheep;" an Act passed in the same years of the same reign, intituled " An Act to " prevent the unprofitable Custom of burning of Corn in the Straw;" an Act passed in the fifteenth year of the same reign, intituled " An Act " concerning Clergy;" an Act passed in the ninth year of the reign of King *William* the Third, intituled " An Act for taking away the Benefit " of Clergy in some Cases;" so much of an Act passed in the fourth year of the reign of Queen *Anne*, intituled " An Act against Horse Stealing, " and to prevent the buying and selling of stolen Horses, and for punish- " ing all Accessories to Felonies" as relates to buyers or receivers of stolen goods, or accessories to felonies; so much of an Act passed in the eighth year of the same reign, intituled " An Act for the encouraging " the Discovery and Apprehending of Housebreakers," as relates to buyers or receivers of stolen goods, or to harbourers of burglars or thieves; an Act passed in the ninth year of the same reign, intituled " An Act for " taking away the Benefit of Clergy in certain Cases, and for taking away " the Book in all Cases, and for repealing Part of the Statute for trans- " porting Felons," save and except such part thereof as relates to the offence of having carnal knowledge of any female child, or as relates to witnesses; so much of an Act passed in the ninth year of the same reign, intituled " An Act to prevent the maiming of Cattle," as makes any offence therein mentioned a felony; so much of an Act passed in the second year of the reign of King *George* the First, intituled " An Act " to empower Justices of the Peace to determine Disputes about Servants, " Artificers, Day Labourers Wages, and other small Demands, and to " oblige Masters to pay the same, and to punish idle and disorderly ser- " vants," as relates to the herein-before recited Act of the Thirty-third year of the reign of King *Henry* the Eighth; an Act passed in the second year of the reign of King *George* the First, intituled " An Act for making " more effectual an Act, intituled ' An Act to prevent the maiming of " ' Cattle;' " so much of an Act passed in the fourth year of the same reign, intituled " An Act for the preserving of all such Ships and Goods " thereof which shall happen to be forced on Shore or stranded upon the " Coasts of this Kingdom," as makes any offence therein mentioned a felony; so much of an Act passed in the sixth year of the same reign, intituled " An Act for the better and more effectual apprehending and " transporting Felons and others, and for continuing and amending seve- " ral Laws made in this Kingdom for suppressing Tories Robbers and " Rapparees," as authorizes the punishment of transportation instead of burning in the hand or whipping, and as relates to the offence of taking money or reward for helping persons to stolen property; an Act passed in the first year of the reign of King *George* the Second, intituled " An " Act for preventing the embezzling of Goods under the Value of Forty " Shillings by Servants, and the malicious Destruction of Engines and " other Things belonging to Mines;" so much of an Act passed in the third year of the same reign, intituled " An Act for the more effectual " preventing and further Punishment of Forgery Perjury and Subornation " of Perjury, and to make it Felony to steal Bonds Notes or other Secu- " rities for Payment of Money, and for the more effectual transporting " Felons Vagabonds and others," as relates to the stealing or taking by robbery of any securities for money therein enumerated; so much of an

10 C. 1. st. 2. c. 19.
10 C. 1. st. 2. c. 23.
10 C. 1. st. 3. c. 16.
10 & 11 C. 1. c. 9.
10 & 11 C. 1. c. 15.
10 & 11 C. 1. c. 17.
15 C. 1. c. 7.
9 W. 3. c. 7.
4 Ann. c. 11. s. 5.
8 Ann. c. 8. s. 5, 6.
9 Ann. c. 6. except s. 3. 8 & 9.
9 Ann. c. 11. s. 3.
2 G. 1. c. 17. s. 19.
2 G. 1. c. 22.
4 G. 1. c. 4. s. 5 & 6.
6 G. 1. c. 12. s. 3, 4, 5.
1 G. 2. c. 24.
3 G. 2. c. 4. s. 2, 3 & 6.
3 G. 2. c. 14. s. 7.

No. XVIII. 9 Geo. IV. c. 53.

Act passed in the same third year of the same reign, intituled "An Act "to prevent unlawful Combinations of Workmen Artificers and Labourers "employed in the several Trades and Manufactures of this Kingdom, and "for the better Payment of their Wages, as also to prevent Abuses in "making of Bricks, and to ascertain their Dimensions," as relates to the

5 G. 2. c. 10. offence of injuring or destroying any goods wares or work; an Act passed in the fifth year of the same reign, intituled "An Act for the more effec- "tual punishing Stealers of Lead or Iron Bars fixed to Houses, or any

7 G. 2. c. 8. "Fences belonging thereunto;" an Act passed in the seventh year of the same reign, intituled "An Act for the more effectual Discovery of Deer

17 G. 2. c. 5. s. 1, 2, 3. "Stealers;" so much of an Act passed in the seventeenth year of the same reign, intituled "An Act to amend and make more effectual the "Laws to prevent the maiming killing and destroying of Cattle, and to "prevent Frauds committed by Butchers dressing Meat for Sale," as

17 G. 2. c. 6. makes any offence therein mentioned a felony; so much of an Act passed in the same year, intituled "An Act to take away the Benefit of Clergy "from any person that shall by Night or by Day-time, feloniously and "privately steal any Goods out of any Shop, Warehouse, Tan Yard, Dry- "ing House, Cellar, or Outhouse, though not adjoining to any Dwelling "House, or off of Quays, and to encourage Persons to apprehend such "Felons and other Robbers," as makes any offence therein mentioned a

21 G. 2. c. 12. felony; an Act passed in the twenty-first year of the same reign, intituled "An Act for the more effectual Punishment of Assaults with Intent to

29 G. 2. c. 12. s. 3, 4. "commit robbery:" so much of an Act passed in the twenty-ninth year of the same reign, intituled "An Act to prevent unlawful Combinations of "Tenants, Colliers, Miners, and others, and the sending of threatening "Letters without Names, or with fictitious Names subscribed thereto, "and the malicious Destruction of Carriages; and for the more effectual "Punishment of wicked Persons who shall maliciously set fire to Houses "or Outhouses, or to Stacks of Hay, Corn, Straw, or Turf, or to Ships

29 G. 2. c. 16. s. 3. "or Boats," as makes any offence therein mentioned a felony; so much of an Act passed in the same year of the same reign, intituled "An "Act for promoting Public Credit," as makes any offence therein men-

31 G. 2. c. 10. except s. 11. & 12. tioned a felony; an Act passed in the thirty-first year of the same reign, intituled "An Act for the more effectual preventing Frauds and Abuses "committed by Persons employed in the Manufacture of Hats, and in the "Fustian, Cotton, Iron, Furr, Woollen, Mohair, and Silk Manufactures of "this Kingdom; and for continuing and amending an Act made in the "Seventh year of His present Majesty's Reign, intituled 'An Act to pre- "'vent Frauds and Abuses in Bay Yarns exported to *Great Britain*,'"

7 G. 3. c. 23. save and except so far as the said Act relates to yarn; an Act passed in the seventh year of the reign of King *George* the Third, intituled "An Act

13 & 14 G. 3. c. 16. "for the further Preservation of Woods and Timber Trees;" an Act passed in the session of Parliament holden in the thirteenth and fourteenth years of the same reign, intituled "An Act for the more effectual pro- "ceeding against Persons standing mute on their Arraignment for Mur-

15 & 16 G. 3. c. 26. (except s. 1, 3 & 5.) "der Felony or Piracy;" an Act passed in the session of Parliament holden in the fifteenth and sixteenth years of the same reign, intituled "An "Act for the encouraging the Cultivation and for the better Preservation "of Trees, Shrubs, Plants and Roots," save and except such part thereof

15 & 16 G. 3. c. 33. as declares what shall be deemed timber trees, and except so far as relates to any certificates therein mentioned; an Act passed in the same session of Parliament, intituled "An Act for the more effectual preventing the "plundering of Ships or Vessels which may be wrecked or stranded on the

19 & 20 G. 3. c. 19. s. 5. "Coasts of this Kingdom;" so much of an Act passed in the session of Parliament holden in the nineteenth and twentieth years of the same reign, intituled "An Act to prevent Combinations, and for the further "Encouragement of Trade," as relates to breaking or entering by force into any house or shop with any intent in the said Act mentioned, and as relates to any wilful or malicious injury to any manufacture, or any tools

19 & 20 G. 3. c. 37. s. 5. employed in the making thereof, or any mill engine or device for the making or perfecting thereof, or to be employed therein; so much of an

Act passed in the same session of Parliament, intituled "An Act to pre- "vent the detestable Practices of houghing Cattle, burning of Houses, "Barns, Haggards, and Corn, and for other Purposes," as relates to searches and search warrants for stolen lambs; so much of an Act passed in the session of Parliament holden in the twenty-third and twenty-fourth years of the same reign, intituled "An Act to amend the Laws for the "Encouragement of planting Timber Trees" as relates to any conviction for a second or third offence of cutting down, pulling up, barking, or otherwise destroying any tree or trees, or as relates to any felony; an Act passed in the same session of Parliament, intituled "An Act for the more easy "Discovery and effectual Punishment of Buyers and Receivers of stolen "Goods;" an Act passed in the same session of Parliament, intituled "An Act for the Amendment of the Law in relation to the Salvage of "Ships and Goods stranded or in danger of perishing at Sea," save and except so far as relates to salvage; an Act passed in the twenty-sixth year of the same reign, intituled "An Act for the more effectual Punishment "of Persons who shall attain or attempt to attain Possession of Money "or Goods by false Pretences or by Threats;" and so much of an Act passed in the twenty-seventh year of the same reign, intituled "An Act "for directing the Application of the Funds granted by Parliament for "promoting and carrying on Inland Navigation in this Kingdom, and for "the Purposes therein mentioned," as relates to any wilful and malicious injury to any works or parts of any canal or inland navigation; an Act passed in the same year, intituled "An Act to prevent the stealing of "Dogs;" an Act passed in the same year, intituled, "An Act to punish more "effectually Persons who shall steal any old Lead, Iron Bars, or Rails, or "Iron or Brass Knockers;" so much of an Act passed in the same year, intituled "An Act for preventing the wilful Destruction of Turnpike Gates, "and for the better securing the Payment of Tolls at such Gates," as relates to any injury to any turnpike gate, or to any other thing therein mentioned; an Act passed in the twenty-eighth year of the same reign, intituled "An Act for the better Preservation of Sheep, and the more speedy De- "tection of Sheep-stealers;" so much of an Act passed in the thirty-first year of the same reign, intituled "An Act to amend an Act, intituled "'An Act to prevent the Practice of seducing Artificers and Manufac- "turers of this Kingdom, and of exporting the several Tools and Utensils "made use of in preparing and working up the Manufactures thereof "into Parts beyond the Seas,'" as relates to any apprentice or other person wilfully cutting, defacing, spoiling or by mismanagement or neglect injuring any work, or any loom tool or materials; an Act passed in the thirty-sixth year of the same reign, intituled "An Act to render Persons "convicted of Petty Larceny competent Witnesses"; an Act passed in the same year, intituled "An Act for the better Regulation of the Woollen "and Cotton Manufactures;" and also the following statutes and Acts, and parts of statutes and Acts, made in the Parliament of the United Kingdom; that is to say, so much of an Act passed in the forty-third year of the reign of King *George* the Third, intituled "An Act for the further "Prevention of malicious shooting and attempting to discharge loaded "Fire Arms, stabbing, cutting, wounding, poisoning, and the malicious "using of Means to procure the Miscarriage of Women; and also the "malicious setting fire to Buildings; and also for repealing a certain Act "made in *England* in the twenty-first year of the late King *James*, inti- "tuled 'An Act to prevent the destroying and murdering of Bastard "Children;' and also an Act made in *Ireland* in the Sixth year of the "reign of the late Queen *Anne*, also intituled 'An Act to prevent the "destroying and murdering of Bastard Children;' and for making other "Provisions in lieu thereof," as relates to the setting fire to any of the buildings therein enumerated; an Act passed in the same year, intituled "An Act for making more effectual Provisions, within *Ireland*, for the "Punishment of Offences in wilfully casting away, sinking, burning, or "destroying Ships and Vessels, and for the more convenient Trial of Ac- "cessories in Felonies;" so much of an Act passed in the same year, intituled "An Act to prevent unlawful Combinations of Workmen, Artifi-

No. XVIII. 9 Geo. IV. c. 53.

23 & 24 G. 3. c. 39. s. 17, 18.

23 & 24 G. 3. c. 45.

23 & 24 G. 3. c. 48. s. 1 to 4.

26 G. 3. c. 37.

27 G. 3. c. 30. s. 22.

27 G. 3. c. 34.

27 G. 3. c. 52.

27 G. 3. c. 53. s. 1.

28 G. 3. c. 37.

31 G. 3. c. 23. s. 3.

36 G. 3. c. 29.

36 G. 3. c. 45.

Acts of the United Parliament. 43 G. 3. c. 58, Part of s. 1.

43 G. 3. c. 79.

43 G. 3. c. 86. s. 8.

No. XVIII. 9 Geo. IV. c. 53.

"cers, Journeymen, and Labourers, in *Ireland*, and for other Purposes "relating thereto," as relates to wilfully damnifying, spoiling, destroying, selling, or otherwise disposing of any goods, wares, work, or materials; so much of an Act passed in the forty-fourth year of the same reign, intituled "An Act to render more easy the apprehending and bringing to "Trial Offenders escaping from one Part of the United Kingdom to the "other, and also from one County to another," as relates to the prosecution and punishment of persons for theft or larceny, and for receiving or having any stolen property as therein mentioned; an Act passed in the fifty-first year of the same reign, intituled "An Act to protect Masters "against embezzlements by their Clerks and Servants in *Ireland*;" an Act passed in the same year, intituled "An Act to repeal so much of an "Act passed in the Parliament of *Ireland* in the Third Year of the Reign "of His present Majesty, intituled 'An Act for the better Regulation of "'the Linen and Hemp Manufactures,' as takes away the Benefit of "Clergy from Felons convicted of stealing Cloth from Bleaching Grounds, "and for more effectually preventing such Felonies;" so much of an Act passed in the fifty-second year of the same reign, intituled "An Act for "the extending the Laws for preventing the Embezzlement of His Ma"jesty's Naval Ordnance and Victualling Stores, to *Ireland*," as relates to an Act of the twenty-second year of King *Charles* the Second, for taking away the benefit of clergy from such as steal cloth from the rack, and from such as steal or embezzle his Majesty's ammuniton and stores; an Act passed in the same year of the same reign, intituled "An Act for more effectually preventing the Embezzlement of Secu"rities for Money and other Effects left or deposited for safe Custody "or other special Purpose in the Hands of Bankers, Merchants, Brokers, "Attornies, or other agents;" an Act passed in the same year intituled "An Act for the extending the Provisions of an Act of the "Thirtieth Year of King *George* the Second, against Persons obtaining "Money by false Pretences, to Persons so obtaining Bonds and other Se"curities;" an Act passed in the same year, intituled "An Act for the "more effectual Punishment of Persons destroying the Properties of His "Majesty's Subjects and enabling the Owners of such Properties to re"cover Damages for the Injury sustained;" an Act passed in the fifty-sixth year of the same reign, intituled "An Act for removing Difficulties in the "Conviction of Offenders stealing property from Mines;" an Act passed in the fifty-eighth year of the same reign, intituled "An Act to repeal "so much of an Act passed in *Ireland* in the Ninth Year of the Reign of "Queen *Anne*, intituled 'An Act for taking away the Benefit of Clergy "'in certain Cases, and for taking away the Book in all Cases, and for "'repealing part of the Statute for transporting Felons,' as takes away "the Benefit of Clergy from Persons stealing privily from the Person of "another; and more effectually to prevent the Crime of Larceny from "the Person;" an Act passed in the fifty-ninth year of the same reign, intituled "An Act to facilitate the Trial of Felonies committed on board "Vessels employed on Canals, navigable Rivers, and Inland Navigations;" an Act passed in the same year, intituled "An Act to facilitate the Trial of "Felonies committed on Stage Coaches and Stage Waggons and other such "Carriages and of Felonies committed on the Boundaries of Counties;" an Act passed in the first year of the reign of his present Majesty, intituled "An Act for the summary Punishment in certain Cases of Persons wilfully "or maliciously damaging or committing Trespasses on public or private "Property;" an Act passed in the same year, for making general the provisions of the herein-before recited Act of the fifty-sixth year of the reign of King *George* the Third; an Act passed in the session of Parliament holden in the first and second years of his present Majesty's reign, intituled "An Act to repeal so much of Two Acts made in the Parliament "of *Ireland* in the Ninth Year of Queen *Anne*, and in the Seventeenth "Year of King *George* the Second, as inflicts Capital Punishment on Per"sons guilty of stealing to the Amount of Five Shillings out of or from "Shops Warehouses and other Outbuildings and Places; and to provide "more suitable and effectual Punishment for such offences; an Act passed

44 G. 3. c. 92. s. 7 & 8.

51 G. 3. c. 38.

51 G. 3. c. 39.

52 G. 3. c. 12. extending 22 Car. 2. c. 5.

52 G. 3. c. 63.

52 G. 3. c. 64.

52 G. 3. c. 130.

56 G. 3. c. 73.

58 G. 3. c. 68.

59 G. 3. c. 27.

59 G. 3. c. 96.

1 G. 4. c. 56.

1 G. 4. c. 102.

1 & 2 G. 4. c. 34.

" in the third year of his present Majesty's reign, intituled " An Act for " extending the Laws against Receivers of stolen Goods to Receivers of " stolen Bonds, Bank Notes, or other Securities for Money;" an Act passed in the same Year, intituled " An Act for the further and more " adequate Punishment of Persons convicted of Manslaughter, and of Ser- " vants convicted of robbing their Masters, and of Accessories before the " Fact of Grand Larceny, and certain other Felonies," except as far as the said Act relates to manslaughter; so much of an Act passed in the same year, intituled " An Act to provide for the more effectual Punish- " ment of certain Offences by Imprisonment with hard Labour," as relates to the punishment of receiving stolen goods, and for obtaining any property as therein mentioned by false pretences; an Act passed in the fifth year of his present Majesty's reign, intituled " An Act to prevent the " stealing the Records Deeds and Papers in *Ireland;*" an Act passed in the sixth year of his present Majesty's reign, intituled " An Act for the " Amendment of the Law as to the Offence of sending threatening Letters;" an Act passed in the same year, intituled " An Act to amend Two Acts " for removing Difficulties in the Conviction of Offenders stealing Pro- " perty in Mines, and from Corporate Bodies;" so much of an Act passed in the sixth year of his present Majesty's reign, intituled " An Act for " the better Regulation of Copartnerships of certain Bankers in *Ireland,*" as makes any offence therein mentioned a felony; so much of an Act passed in the same year, intituled " An Act to alter and amend an Act " for the better Protection of the Property of Merchants and others, who " may hereafter enter into Contracts or Agreements, in relation to " Goods, Wares or Merchandize entrusted to Factors or Agents," as relates to any misdemeanor therein mentioned; so much of an Act passed in the seventh year of his present Majesty's reign, intituled " An Act to " provide for the more effectual Punishment of certain Offences in *Ire-* " *land,* by Imprisonment with hard Labour," as relates to grand or petty larceny, or to receiving stolen goods, or to false pretences; an Act passed in the same year, intituled " An Act to prevent the wilful and malicious " Destruction of Dwelling Houses in *Ireland;*" an Act passed in the same year, intituled " An Act to amend the Law in respect to the Offence " of stealing from Gardens and Hothouses;" an Act passed in the session of Parliament holden in the seventh and eighth years of his present Majesty's reign to explain and amend the herein-before recited Act of the seventh year of the reign of his present Majesty, for preventing the wilful and malicious destruction of dwelling-houses in *Ireland;* and the said several herein-before recited statutes and Acts, and parts of statutes and Acts, are hereby repealed accordingly, so far as relates to *Ireland,* or to offences committed within the jurisdiction of the admiralty of *Ireland;* save and except so far as the said statutes and Acts or parts of statutes and Acts respectively, or any of them, may repeal the whole or any part of any other Act or Acts; and save and except as to offences committed, and punishments awarded, and other matters done before or upon the said thirty-first day of *August* one thousand eight hundred and twenty-eight, which shall be dealt with considered and punished as if this Act had not been passed.

3 G. 4. c. 24. 3 G. 4. c. 38. except s. 1. 3 G. 4. c. 114. 5 G. 4. c. 30. 6 G. 4. c. 19. 6 G. 4. c. 56. 6 G. 4. c. 42. s. 23. 6 G. 4. c. 94. s. 7, 8. 9, 10. 7 G. 4. c. 9. 7 G. 4. c. 60. 7 G. 4. c. 69. 7 & 8 G. 4. c. 32.

II. And be it further enacted, That all Acts and parts of Acts continuing or perpetuating any of the Acts or parts of Acts herein-before repealed, so far only as relates to such continuation or perpetuation, from and after the said thirty-first day of *August* one thousand eight hundred and twenty-eight, shall be and the same are hereby repealed.

Proviso as to continuing Acts, &c.

III. Provided always, and be it enacted, That nothing in this Act contained shall in anywise affect or alter such part of any Act as relates to the post office, or to any branch of the public revenue, or to the naval, military, victualling, or other public stores of his Majesty, or any Act relating to the Bank of *Ireland;* except so far as this Act repeals part of an Act of the fifty-second year of King *George* the Third, relating to naval ordnance and military stores.

Exceptions out of this Act.

No. XIX.
9 Geo. IV.
c. 54.

[No. XIX.] 9 George IV. c. 54.—An Act for improving the Administration of Justice in Criminal Cases in *Ireland*.—[15th *July* 1828.]

WHEREAS it is expedient, with a view to improve the administration of justice in criminal cases in *Ireland*, to define under what circumstances persons may be admitted to bail in cases of felony; and to make better provisions for taking examinations, informations, bailments, and recognizances, and returning the same to the proper tribunals; and to relax in some instances the technical strictness of criminal proceedings, so as to ensure the punishment of the guilty without depriving the accused of any just means of defence; and to abolish the benefit of clergy and some matters of form which impede the due administration of justice; and to make better provisions for the punishment of offenders in certain cases: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That where any person shall be taken on a charge of felony, or suspicion of felony, before one or more justice or justices of the peace, and the charge shall be supported by positive and credible evidence of the fact, or by such evidence as if not explained or contradicted shall, in the opinion of the justice or justices, raise a strong presumption of the guilt of the person charged, such person shall be committed to prison by such justice or justices in the manner herein-after mentioned; but if there shall be only one justice present, and the whole evidence given before him shall be such as neither to raise a strong presumption of guilt, nor to warrant the dismissal of the charge, such justice shall order the person charged to be detained in custody, and such person shall be taken before two justices at the least; and where any person so taken, or any person in the first instance taken before two justices of the peace, shall be charged with felony, or on suspicion of felony, and the evidence given in support of the charge shall, in the opinion of such justices, not be such as to raise a strong presumption of the guilt of the person charged, and to require the committal of such person, or such evidence shall be adduced on behalf of the person charged as shall, in the opinion of such justices, weaken the presumption of guilt, but there shall, notwithstanding, appear to such justices, in either of such cases, to be sufficient ground for judicial enquiry into the guilt of the person charged, such person shall be admitted to bail by such two justices in the manner herein-after mentioned: Provided always, that nothing herein contained shall be construed to require any such justice or justices to hear evidence on behalf of any person so charged as aforesaid, unless it shall appear to such justice or justices to be meet and conducive to the ends of justice to hear the same.

Who may be admitted to Bail on a Charge of Felony, and who may not.

Justice not obliged to hear Evidence on behalf of Persons charged.

II. And be it enacted, That two justices of the peace, before they shall admit to bail, and one or more justice or justices, before he or they shall commit to prison, any person arrested for felony or on suspicion of felony, shall take the examination of such person, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or as much thereof as shall be material, into writing, and the two justices admitting to bail shall certify the bailment in writing; and every such justice shall have authority to summon any person within his jurisdiction, whom he shall have reason to consider capable of giving material evidence concerning any such felony or suspicion of felony, and to examine such person on oath touching the same, and to bind by recognizance all such persons as know or declare any thing material touching any such felony or suspicion of felony, to appear at the next court of oyer and terminer or gaol delivery, or other court at which the trial of such offence is intended to be had, then and there to prosecute and give evidence against the party accused; and such justices and justice respectively shall

Before any Person charged with Felony, &c. shall be bailed or committed, the Justices shall take down the Examination, &c. and bind Witnesses to appear.

Power to summon Witnesses.

subscribe all such examinations, informations, bailments, and recognizances, and deliver or cause to be delivered the same to the proper officer of the court in which the trial is to be, before or at the opening of the court; and in case any person so summoned shall refuse to submit to such examination or to enter into such recognizance, it shall be lawful for the justice or justices to commit such person to the public gaol of the county city or town, until such person shall submit to such examination, or shall enter into such recognizance, or be discharged by due course of law; provided that no such examination shall subject the party examined to any prosecution or penalty, or be given in evidence against such party, save on any indictment for having committed wilful and corrupt perjury in such examination.

Examinations, &c., to be delivered to the Court.

Punishment of Party refusing to be examined. Examination not to be Evidence against the Party, except as to Perjury.

III. And be it further enacted, That every justice of the peace before whom any person shall be taken on a charge of misdemeanor, or suspicion thereof, shall take the examination of the person charged, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or as much thereof as shall be material, into writing, before he shall commit to prison or require bail from the person so charged; and in every case of bailment shall certify the bailment in writing; and shall have authority to bind all persons by recognizance to appear to prosecute or give evidence against the party accused, in like manner as in cases of felony; and shall subscribe all examinations, informations, bailments, and recognizances, and deliver or cause to be delivered the same to the proper officer of the court in which the trial is to be, before or at the opening of the court, in like manner as in cases of felony.

Duty and Power of Justice on Charges of Misdemeanor.

IV. And be it further enacted, That every coroner, upon any inquisition taken before him, whereby any person shall be indicted for manslaughter or murder, or as an accessory to murder before the fact, shall put in writing the evidence given to the jury before him, or as much thereof as shall be material; and shall have authority to bind by recognizance all such persons as know or declare any thing material touching the said manslaughter or murder, or the said offence of being accessory to murder, to appear at the next court of oyer and terminer or gaol delivery, or other court at which the trial is to be, then and there to prosecute or give evidence against the party charged; and every such coroner shall certify and subscribe the same evidence, and all such recognizances, and also the inquisition before him taken, and shall deliver the same to the proper officer of the court in which the trial is to be, before or at the opening of the court.

Duty and Power of Coroner on Inquests whereon Parties are indictable for Murder.

V. And be it further enacted, That if any justice or coroner shall neglect or offend in any thing contrary to the true intent and meaning of any of the provisions of this Act, it shall be lawful for the court to whose officer any such examination, information, evidence, bailment, recognizance, or inquisition ought to have been delivered, and such court is hereby authorized and required, upon examination and proof of the offence, in a summary manner to set such fine upon every such justice or coroner as the court shall think meet.

Courts may fine Justices and Coroners for Neglect, &c.

VI. And be it further enacted, That the provisions of this Act relating to justices and coroners shall apply to the justices and coroners not only of counties at large, but also of all other jurisdictions.

Provisions to apply to all Justices and Coroners.

VII. And be it enacted, That whenever any person, not having privilege of peerage, being arraigned upon any indictment for treason felony or piracy, shall plead thereto a plea of not guilty, such person shall, by such plea, without any further form, be deemed to have put himself or herself upon the country for trial, and the court shall, in the usual manner, order a jury for the trial of such person accordingly.

Plea of Not guilty, without more, shall put the Prisoner on his Trial by Jury.

VIII. And be it enacted, That if any person, being arraigned upon or charged with any indictment or information for treason, felony, piracy, or misdemeanor, shall stand mute of malice, or will not answer directly to the indictment or information, in every such case it shall be lawful for the court, if it shall so think fit, to order the proper officer to enter a plea of

If Prisoner refuse to plead, Court may order Plea of Not guilty to be entered.

No. XIX. 9 Geo. IV. c. 54.

not guilty on behalf of such person; and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

The King shall only challenge for Cause certain.

IX. And be it further enacted, That in all inquests to be taken before any of the courts in *Ireland*, wherein the King is a party, howsoever it be, notwithstanding it be alleged by them that sue for the King that the jurors of those inquests, or some of them, be not indifferent for the King, yet such inquests shall not remain untaken for that cause; but if they that sue for the King will challenge any of those jurors, they shall assign of their challenge a cause certain, and the truth of the same challenge shall be inquired of according to the custom of the court; and it shall be proceeded to the taking of the same inquisitions, as it shall be found, if the challenges be true or not, after the discretion of the court: Provided always,

Courts may bid a Juror stand by.

that nothing herein contained shall affect or be construed to affect the power of any court in *Ireland* to order any juror to stand by until the panel shall be gone through, at the prayer of them that prosecute for the King, as has been heretofore accustomed; and that no person arraigned for treason or murder, or for other felony, shall be admitted to any peremptory

Prisoner allowed twenty peremptory Challenges only in Felony.

challenge above the number of twenty; and if any person so arraigned for treason or murder, or for other felony, shall peremptorily challenge more than twenty, such excessive challenge shall be rejected, and the jurors so challenged beyond the number of twenty shall be sworn on the inquest, and the trial shall proceed as if such excessive challenge had not been made or taken.

Attainder not pleadable in Bar.

X. And be it enacted, That no plea setting forth any attainder shall be pleaded in bar of any indictment, unless the attainder be for the same offence as that charged in the indictment.

Jury shall not inquire of Prisoner's Lands, &c.

XI. And be it enacted, That where any person shall be indicted for treason or felony, the jury impannelled to try such person shall not be charged to inquire concerning his lands tenements or goods, nor whether he fled for such treason or felony.

Benefit of Clergy abolished.

XII. And be it enacted, That benefit of clergy with respect to persons convicted of felony shall be abolished; but that nothing herein contained shall prevent the joinder in any indictment of any counts which might have been joined before the passing of this Act.

What Felonies only shall be Capital.

XIII. And be it enacted, That no person convicted of felony shall suffer death, unless it be for some felony which was excluded from the benefit of clergy before or on the first day of the present session of Parliament, or which hath been or shall be made punishable with death by some Act passed after that day.

Persons convicted of certain Felonies, after Punishment, declared competent Witnesses.

XIV. And be it enacted, That every person convicted of a felony which was not excluded from the benefit of clergy before or on the first day of the present session of Parliament, and which hath not been and shall not be made punishable with death by any statute passed after that day, shall, after having suffered the punishment awarded by the court upon such conviction, be a competent witness.

Felonies, not capital, punishable under the Acts relating thereto, or according to this Act, by Transportation, &c.

XV. And be it enacted, That every person convicted of any felony not punishable with death shall be punished in the manner prescribed by the statute or statutes specially relating to such felony; and that every person convicted of any felony for which no punishment hath been or hereafter may be specially provided, shall be deemed to be punishable under this Act, and shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years, and if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Persons returning from Transportation punishable with Death as Felons, may be tried where found, &c.

XVI. And be it enacted, That if any person heretofore sentenced or ordered, or hereafter to be sentenced or ordered, to be transported, or who shall have agreed or shall agree to transport or banish himself or herself on certain conditions, either for life or for any number of years, shall be afterwards at large within any part of the United Kingdom, without some lawful cause, before the expiration of his or her term of transportation or banishment, every such offender shall be guilty of felony, and shall suffer

death as a felon; and every such offender may be tried, either in the county or place where such offender shall be found at large, or in the county or place at which such sentence or order of transportation or banishment was passed or made.

Allegation of Sentence, &c. of Transportation sufficient, without reference to Indictment.

XVII. And be it enacted, That in any indictment or information against any offender for being found at large contrary to the provisions of this Act, or of any other Act now in force or hereafter to be in force, whether such offender shall have been tried before any court or judge within or without the United Kingdom, or before any naval or military court-martial, it shall be sufficient to allege the sentence or order of transportation or banishment of such offender, without alleging any indictment, information, trial, conviction, judgment, or other proceeding, or any pardon or intention of mercy, or signification thereof, of or against or in any manner relating to such offender.

Certificate of the Sentence of Transportation by the Clerk of the Court sufficient Evidence, &c.

XVIII. And be it enacted, That the clerk of the court, or other officer having the custody of the records of the court where any such sentence or order of transportation or banishment shall have been passed or made, or his deputy, shall, at the request of any person on behalf of his Majesty, make out and give a certificate in writing, signed by him, containing the effect and substance only (omitting the formal part) of any indictment information and conviction of such offender, and of the sentence or order for his or her transportation or banishment, (not taking for the same more than the sum of six shillings and eight-pence,) which certificate shall be sufficient evidence of the conviction and sentence or order for the transportation or banishment of such offender; and every such certificate, if made by the clerk or officer of any court in *Ireland*, or by his deputy, shall be received in evidence upon proof of the signature of the person signing the same; and every such certificate, if made by the clerk or officer of any court out of *Ireland*, shall be received in evidence, if verified by the seal of the court, or by the signature of the judge or of one of the judges of such court, without further proof.

The Court may order hard Labour or solitary Confinement as Part of the Sentence of Imprisonment.

XIX. And be it enacted, That where any person shall be convicted of any offence punishable under this Act, for which imprisonment may be awarded, it shall be lawful for the court to sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or house of correction; and also to direct that the offender shall be kept in solitary confinement for the whole or any portion or portions of such imprisonment, or with such imprisonment with hard labour, as to the court in its discretion shall seem meet.

On Conviction of Felony of a Person under Sentence for a former Crime, the Court may pass a second Sentence, to commence after the Expiration of the first.

XX. And be it enacted, That whenever sentence shall be passed for felony on a person already imprisoned under sentence for another crime, it shall be lawful for the court to award imprisonment for the subsequent offence, to commence at the expiration of the imprisonment to which such person shall have been previously sentenced; and where such person shall be already under sentence, either of imprisonment or of transportation, the court, if empowered to pass sentence of transportation, may award such sentence for the subsequent offence, to commence at the expiration of the imprisonment or transportation to which such person shall have been previously sentenced, although the aggregate term of imprisonment or transportation respectively may exceed the term for which either of those punishments could be otherwise awarded.

Punishment for Felony (not capital) committed subsequent to a previous Conviction for Felony, Transportation, &c.

XXI. And whereas it is expedient to provide for the more exemplary punishment of offenders who commit felony after a previous conviction for felony, whether such conviction shall have taken place before or after the commencement of this Act; be it therefore enacted, That if any person shall be convicted of any felony not punishable with death, committed after a previous conviction for felony, such person shall on such subsequent conviction be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment; and in any indictment for any such

No. XIX. 9 Geo. IV. c. 54.

felony committed after a previous conviction for felony, it shall be sufficient to state, that the offender was at a certain time and place convicted of felony, without otherwise describing the previous felony; and a certificate, containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous felony, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court where the offender was first convicted, or by the deputy of such clerk or officer, (for which certificate a fee of six shillings and eight-pence, and no more, shall be demanded or taken,) shall, upon proof of the identity of the person of the offender, be sufficient evidence of the first conviction, without proof of the signature or official character of the person appearing to have signed the same; and if any clerk officer or deputy shall utter any false certificate of any indictment and conviction for a previous felony, or of any sentence or order of transportation or banishment, or if any person, other than such clerk officer or deputy, shall sign any such certificate as such clerk officer or deputy, or shall utter any such certificate with a false or counterfeit signature thereto, every such offender shall be guilty of felony, and being lawfully convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years, or to be imprisoned for any term not exceeding two years, and if a male, to be once twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Form of Indictment for the subsequent Felony.

Proof of the first Conviction by Certificate of Clerk of the Court.

Uttering a false Certificate of Conviction, Felony, punishable by Transportation.

Admiralty Offences.

XXII. And be it enacted, That all offences prosecuted in the High Court of Admiralty of *Ireland* shall upon every first and subsequent conviction be subject to the same punishment, whether of death or otherwise, as if such offences had been committed upon the land.

Accessory before the Fact may be tried as such, or as a substantive Felon, by any Court which has Jurisdiction to try the principal Felon, although the Offence be committed on the Seas or Abroad.

XXIII. And, for the more effectual prosecution of accessories before the fact to felony, be it enacted, That if any person shall counsel procure or command any other person to commit any felony, whether the same be a felony at common law, or by virtue of any statute or statutes made or to be made, the person so counselling procuring or commanding shall be deemed guilty of felony, and may be indicted and convicted as an accessory before the fact to the principal felony, either together with the principal felon, or after the conviction of the principal felon; or may be indicted for and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may be punished in the same manner as an accessory before the fact to the same felony, if convicted as an accessory, may be punished; and the offence of the person so counselling procuring or commanding, howsoever indicted, may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if such offence had been committed at the same place as the principal felony, although such offence may have been committed, either on the high seas, or at any place on land, whether within his Majesty's dominions or without; and in case the principal felony shall have been committed within the body of any county, and the offence of counselling procuring or commanding shall have been committed within the body of any other county, the last-mentioned offence may be inquired of, tried, determined and punished in either of such counties: Provided always, that no person who shall be once duly tried for any such offence, whether as an accessory before the fact, or as for a substantive felony, shall be liable to be again indicted or tried for the same offence.

If the Offences be committed in different Counties, Accessory may be tried in either.

Accessory after the Fact may be tried by any Court which has Jurisdiction to try the principal Felon.

XXIV. And for the more effectual prosecution of accessories after the fact to felony, be it enacted, That if any person shall become an accessory after the fact to any felony, whether the same be a felony at common law, or by virtue of any statute or statutes made or to be made, the offence of such person may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if the act by reason whereof such person shall have become an accessory had been committed at the same place as the principal felony, although such act may have been committed, either on the high seas, or

at any place on land, whether within his Majesty's dominions or without; and that in case the principal felony shall have been committed within the body of any county, and the Act by reason whereof any person shall have become accessory shall have been committed within the body of any other county, the offence of such accessory may be inquired of, tried, determined, and punished in either of such counties: Provided always, that no person who shall be once duly tried of any offence of being an accessory shall be liable to be again indicted or tried for the same offence.

If the Offences be committed in different Counties, Accessory may be tried in either.

XXV. And in order that all accessories may be convicted and punished in cases where the principal felon is not attainted, be it enacted, That if any principal offender shall be in anywise convicted of any felony, it shall be lawful to proceed against any accessory either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall die, or be pardoned, or otherwise delivered before attainder; and every such accessory shall suffer the same punishment, if such accessory be in anywise convicted, as such accessory should have suffered if the principal had been attainted.

Accessory may be prosecuted after Conviction of the Principal, though the Principal be not attainted, &c.

XXVI. And for the more effectual prosecution of offences committed near the boundaries of counties, or partly in one county and partly in another, be it enacted, That where any felony or misdemeanor shall be committed on the boundary or boundaries of two or more counties, or within the distance of five hundred yards of any such boundary or boundaries, or shall be begun in one county and completed in another, every such felony or misdemeanor may be dealt with, inquired of, tried, determined, and punished in any of the said counties, in the same manner as if it had been actually and wholly committed therein.

Offences committed on the Boundaries of Counties may be tried in either County.

XXVII. And for the more effectual prosecution of offences committed during journies from place to place, be it enacted, That where any felony or misdemeanor shall be committed on any person, or on or in respect of any property, in or upon any coach, waggon, cart, or other carriage whatever, employed in any journey, or shall be committed on any person, or on or in respect of any property, on board any vessel whatever employed in any voyage or journey upon any navigable river canal or inland navigation, such felony or misdemeanor may be dealt with, inquired of, tried, determined, and punished in any county through any part whereof such coach, waggon, cart, carriage, or vessel, shall have passed in the course of the journey or voyage during which such felony or misdemeanor shall have been committed, in the same manner as if it had been actually committed in such county; and in all cases where the side centre or other part of any highway, or the side, bank, centre, or other part of any such river canal or navigation, shall constitute the boundary of any two counties, such felony or misdemeanor may be dealt with, inquired of, tried, determined, and punished in either of such counties through or adjoining to or by the boundary of any part whereof such coach, cart, waggon, carriage, or vessel, shall have passed in the course of the journey or voyage during which such felony or misdemeanor shall have been committed, in the same manner as if it had been actually committed in such county.

Offences committed during a Journey or Voyage may be tried in any County through which the Coach, &c. passed.

When Sides, &c., of Highway constitute Boundary, Offender may be tried in either County.

XXVIII. And in order to remove the difficulty of stating the names of all the owners of property, in the case of partners and other joint owners, be it enacted, That in any indictment or information for any felony or misdemeanor wherein it shall be requisite to state the ownership of any property whatsoever, whether real or personal, which shall belong to or be in the possession of more than one person, whether such persons be partners in trade, joint tenants, parceners, or tenants in common, it shall be sufficient to name one of such persons, and to state such property to belong to the person so named and another or others, as the case may be; and whenever in any indictment or information for any felony or misdemeanor it shall be necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision shall be construed to extend to all joint stock companies and trustees.

In Indictments for Offences committed on the Property of Partners, it may be laid in any one Partner by Name, and others.

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In Indictments for Felonies, &c. relating to Churches, Bridges, or Public Buildings, Property need not be stated as being in any Person.

XXIX. And be it enacted, That in any indictment or information for any felony or misdemeanor committed in upon or with respect to any church chapel or place of religious worship, or to any bridge, court, court house, sessions house, gaol, house of correction, infirmary, asylum, or other public building, erected or maintained in whole or in part at the expence of any county county of a city or county of a town, or on or with respect to any goods or chattels whatsoever, provided for or at the expence of any county county of a city or county of a town, to be used for making altering or repairing any bridge or highway, or any court or other such building as aforesaid, or to be used in or with any such court or other building, it shall not be necessary to state such church chapel or place of religious worship, or such bridge, court, court house, sessions house, gaol, house of correction, infirmary, asylum, or other building, or any such goods or chattels, to be the property of any person.

Indictments shall not be abated by dilatory Plea of Misnomer, or of Want of Addition, &c.

XXX. And for preventing abuses from dilatory pleas, be it enacted, That no indictment shall be abated by reason of any dilatory plea of misnomer, or of want of addition or of wrong addition, of any party offering such plea, if the court shall be satisfied, by affidavit or otherwise, of the truth of such plea; but in such case the court shall forthwith cause the indictment or information to be amended according to the truth, and shall call upon such party to plead thereto, and shall proceed as if no such dilatory plea had been pleaded.

What Defects shall not vitiate an Indictment after Verdict, or otherwise.

XXXI. And in order that the punishment of offenders may be less frequently intercepted in consequence of technical niceties, be it enacted, That no judgment upon any indictment or information for any felony or misdemeanor, whether after verdict or outlawry, or by confession default or otherwise, shall be stayed or reversed for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute" instead of the words "against the form of the statutes," or *vice versâ*, nor for that any person or persons mentioned in the indictment or information is or are designated by a name of office or other descriptive appellation instead of his her or their proper name or names, nor for omitting to state the time at which the offence was committed, in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment or exhibiting the information, or on an impossible day, or on a day that never happened, nor for want of a proper or perfect venue where the court shall appear by the indictment or information to have had jurisdiction over the offence.

Certain formal Defects shall not stay or reverse Judgment after Verdict.

XXXII. And be it further enacted, That no judgment after verdict upon any indictment or information for any felony or misdemeanor shall be stayed or reversed for want of a similiter, nor by reason that the jury process has been awarded to a wrong officer upon an insufficient suggestion, nor for any misnomer or misdescription of the officer returning such process, or of any of the jurors, nor because any person has served upon the jury who has not been returned as a juror by the sheriff or other officer; and that where the offence charged shall be an offence theretofore created by any statute, or subjected to a greater degree of punishment, or excluded from the benefit of clergy, by any statute, the indictment or information shall after verdict be held sufficient, if it describe the offence in the words of the statute creating the offence or prescribing the punishment or excluding the offender from the benefit of clergy.

Effect of a free or conditional Pardon to a Convict.

XXXIII. And be it declared and enacted, That where the royal mercy shall be extended to any offender convicted of any felony punishable with death or otherwise, and either a free pardon or a conditional pardon shall by warrant in due form be granted to such offender, the discharge of such offender out of custody in the case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon under the great seal for such offender as to the felony for

which such pardon shall be so granted: Provided always, that no free pardon, nor any such discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any felony committed after the granting of any such pardon. Proviso.

Recognizance in certain Cases not to be estreated without a Judge's Order.

XXXIV. And whereas the practice of indiscriminately estreating recognizances for the appearance of persons to prosecute or give evidence, or to answer for a common assault, or in the other cases herein-after specified, has been found in many instances productive of hardship to persons who have entered into such recognizances; be it therefore enacted, That in every case where any person bound by recognizance for his or her appearance (or for whose appearance any other person shall be so bound) to prosecute or give evidence in any case of felony or misdemeanor, or to answer for any common assault, or to articles of the peace, shall therein make default, the officer of the court by whom the estreats are made out shall, and such officer is hereby required to prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which every such person, or his or her surety, was so bound, together with the residence, trade, profession, or calling, of every such person and surety, and shall in such list distinguish the principals from the sureties, and shall state the cause, if known, why each such person has not appeared, and whether, by reason of the non-appearance of such person, the ends of justice have been defeated or delayed; and every such officer shall, and such officer is hereby required, before any such recognizances shall be estreated, to lay such list, if at a court of oyer and terminer or gaol delivery in any county, before one of the justices of those courts respectively, and if at a court wherein a recorder or other corporate officer is the judge or one of the judges, before such recorder or other corporate officer, and if at a session of the peace, before the assistant barrister or two other justices of the peace who shall have attended such court, who are respectively authorized and required to examine such list, and to make such order touching the estreating or putting in process any such recognizance as shall appear to them respectively to be just; and it shall not be lawful for the officer of any court to estreat or put in process any such recognizance without the written order of the justice, recorder, corporate officer, assistant barrister, or justices of the peace, before whom respectively such list shall have been laid.

Rule for the Interpretation of this and all Criminal Statutes.

XXXV. And be it enacted, That wherever in this Act, or in any other Act relating to any offence, whether punishable upon indictment or summary conviction, in describing or referring to the offence, or the subject matter on or with respect to which it shall be committed, or the offender or the party affected or intended to be affected by the offence, any word or words have been or shall be used or employed, importing the singular number or the masculine gender only, every such Act shall be understood to include several matters of the same kind as well as one matter, and several persons as well as one person, and females as well as males, and bodies coporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and wherever any forfeiture or penalty is or shall be made payable to a party aggrieved, it shall be payable to a body corporate in every case where such body shall be the party aggrieved.

Commencement of this Act.

XXXVI. And be it enacted, That this Act shall commence and take effect on the first day of *September* one thousand eight hundred and twenty-eight, and that it shall extend only to that part of the United Kingdom called *Ireland*.

(B.)

EXAMINATION.—BAIL.—COMMITMENT.

[No. I.] 3 Edward I. c. 15.—Which Prisoners be mainpernable, and which not. The Penalty for unlawful Bailment.

No. I. 3 Edw. I. c. 15.

'AND forasmuch as sheriffs and other, which have taken and kept in prison persons detected of felony, and incontinent, have let out by replevin such as were not replevisable, and have kept in prison such as were replevisable, because they would gain of the one party, and grieve the other; and forasmuch as before this time it was not determined which persons were replevisable, and which not, but only those that were taken for the death of man, or by commandment of the King, or of his justices, or for the forest:' 'It is provided, and by the King commanded, that such prisoners as before were outlawed, and they which have abjured the realm, provors, and such as be taken with the manor, and those which have broken the King's prison, thieves openly defamed and known, and such as be appealed by provors, so long as the provors be living (if they be not of good name) and such as be taking for house-burning feloniously done, or for false money, or for counterfeiting the King's seal, or persons excommunicate, taken at the request of the bishop, or for manifest offences, or for treason touching the King himself, shall be in no wise replevisable by the common writ nor without writ: But such as be indicted of larceny, by enquests taken before sheriffs or bailiffs by their office, or of light suspicion, or for petty larceny that amounteth not above the value of *xii. d.* if they were not guilty of some other larceny aforetime, or guilty of receipt of felons, or of commandment, or force, or of aid in felony done; or guilty of some other trespass, for which one ought not to lose life nor member, and a man appealed by a provor after the death of the provor (if he be no common thief, nor defamed) shall from henceforth be let out by sufficient surety, whereof the sheriff will be answerable, and that without giving ought of their goods. And if the sheriff, or any other, let any go at large by surety, that is not replevisable, if he be sheriff or constable, or any other bailiff of fee, which hath keeping of prisons, and thereof be attainted, he shall lose his fee and office for ever. And if the under-sheriff,

What sort of Offenders be not mainpernable.

What sort of Offenders be mainpernable.

The Penalty for unlawful mainprise.

'constable, or bailiff of such as have fee for keeping of prisons, do it contrary to the will of his lord, or any other bailiff being not of fee, they shall have three years imprisonment, and make fine at the King's pleasure. And if any withhold prisoners replevisable, after that they have offered sufficient surety, he shall pay a grievous amerciament to the King; and if he take any reward for the deliverance of such, he shall pay double to the prisoner, and also shall be in the great mercy of the King.

No. I. 3 Edw. I. c. 15.

The penalty for detaining a prisoner that is mainpernable.

[No. II.] 4 Edward III. c. 10.—Sheriffs and Gaolers shall receive Offenders without taking any Thing.

[No. III.] 5 Edward III. c. 8.—The Marshals of the King's Bench shall not bail Felons.

[No. IV.] 23 Henry VI. c. 9.—No Sheriff shall let to ferm his County or any Bailiwick. The Sheriffs and Bailiffs Fees and Duties in several Cases.

[See Pt. IV. Cl. III. No. 10.]

[No. V.] 1 Richard III. c. 3.—Every Justice of Peace may let a Prisoner to Mainprize. No Officer shall seize the Goods of a Prisoner until he be attainted.

'FORASMUCH as divers persons have been daily arrested and imprisoned for suspection of felony, sometime of malice, and sometimes of a 'light suspection, and so kept in prison without bail or mainprise, to their 'great vexation and trouble;' Be it ordained and established by authority of this present Parliament, That every justice of peace in every shire, city, or town, shall have authority and power, by his or their discretion, to let such prisoners and persons so arrested, to bail or mainprise, in like form as though the same prisoners or persons were indicted thereof of record before the same justices in their sessions; and that justices of peace have authority to enquire in their sessions of all manner escapes of every person arrested and imprisoned for felony. And that no sheriff, under-sheriff, nor escheator, bailiff of franchise, nor any other person, take or seise the goods of any person arrested or imprisoned for suspicion of felony, before that the same person, so arrested or imprisoned, be convicted or attainted of such felony according to the law, or else the same goods otherwise lawfully forfeited; upon pain to forfeit the double value of the goods so taken, to him that is so hurt in that behalf, by action of debt to be pursued by like process, judgment and execution, as is commonly used in other actions of debt sued at the common law; and that no essoin or protection be allowed in any such action; nor that the defendant in any such action be admitted to wage or do his law.

No V. 1 Rich. III. c. 3.

Every justice of peace may admit a prisoner to bail. Rep. 3. H. 7. c. 3. 1 & 2 Ph. & M. c. 13.

Escape of felons inquirable by justices of peace.

No officer shall seize the goods of a prisoner until he be attainted, or the goods forfeited.

[No. VI.] 3 Henry VII. c. 3.—Justices of Peace may let Prisoners to Bail. The Sheriff shall certify the Names of all his Prisoners at the Gaol delivery.

'ITEM, Where in the Parliament late holden at *Westminster*, the first 'year of *Richard*, late in deed, and not of right, King of *England*, the 'Third; it was ordained and enacted among other divers Acts, That every 'justice of the peace in every shire, city or town, should have authority 'and power, by his or their discretion, to let prisoners, and persons ar- 'rested for light suspicion of felony, to bail or mainprise; by colour 'whereof afterward divers persons, such as were not mainpernable, were

No. VI. 3 Hen. VII. c. 3.

1 R. 3. c. 3.

No. VI.
3 Hen. VII. c. 3.

'oftentimes letten to bail and mainprise, by justices of the peace, against 'the due form of the law, whereby many murderers and felons escaped, 'to the great displeasure of the King, and annoyance of his liege people:' Wherefore the King our said Sovereign Lord considering it, by the advice and assent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, hath ordained, established, and enacted, That the justices of peace in every shire, city, or town, or two of them at the least, whereof one to be of the *quorum*, have authority and power to let any such prisoners, or persons mainpernable by the law, that have been imprisoned within their several counties, city, or town, to bail or mainprise, unto their next general sessions, or unto the next gaol-delivery of the same gaols in every shire, city, or town, as well within franchises as without, where any gaols been or hereafter shall be; and that the said justices of the peace, or one of them, so taking any such bail or mainprise, do certify the same at the next general sessions of the peace, or the next general gaol-delivery of any such gaol within every such county, city, or town, next following after any such bail or mainprise so taken, upon pain to forfeit unto the King for every default thereupon recorded *x. li.* And moreover it is enacted by the same authority, That every sheriff, bailiff of franchise, and every other person, having authority or power of keeping of gaol, or of prisoners for felony, in like manner and form do certify the names of every such prisoner in their keeping, and of every prisoner to them committed for any such cause, at the next general gaol-delivery, in every county or franchise where any such gaol or gaols have been, or hereafter shall be, there to be kalendred before the justices of the deliverance of the same gaol, whereby they may, as well for the King as for the party, proceed to make deliverance of such prisoners according to the law, upon pain to forfeit unto the King for every default thereof recorded, *c. s.* and that the aforesaid Act giving authority and power in the premises to any justice of the peace by himself, be in that behalf utterly void and of none effect by authority of this present Parliament.

Justices of the peace may let a prisoner to mainprise, who is mainpernable. Inforced by 1 & 2 Phil. & Mar. c. 13.

The sheriff shall certify the names of all prisoners in his custody to the justices of gaol-delivery.

A repeal of the stat. of 1 R. 3. c. 3. touching bailing of prisoners.

[No. VII.] 1 and 2 Philip and Mary, c. 13.—An Act touching Bailment of Persons.

No. VII.
1 & 2 P. & M. c. 13.

'WHERE in the Parliament holden at *Westminster* in the third year of the reign of the noble Prince King *Henry* the Seventh, it was among 'other things ordained and enacted, That no prisoner arrested for felony, 'should be letten to bail or mainprise by any one justice of peace, but by 'the whole justices, or at least by two of them, whereof one to be of the '*quorum*; since the making of which estatute, one justice of peace in the 'name of himself and one other of the justices his companion, not making 'the said justice party nor privy unto the case wherefore the prisoner should 'be bailed, hath oftentimes by sinister labour and means set at large the 'greatest and notablest offenders, such as be not replevisable by the laws 'of this realm; and yet the rather to hide their affections in that behalf, 'have signed the cause of their apprehension to be but only for suspicion of 'felony, whereby the said offenders have escaped unpunished, and do daily, 'to the high displeasure of Almighty God, the great peril of the King 'and Queen's true subjects, and encouragement of all thieves and evil-'doers.'

In what manner justices of peace may bail persons arrested of felony, or suspicion thereof, &c. 3 H. 7. c. 3.

II. For reformation whereof, be it ordained and enacted by the King and Queen's Majesties, the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, That from and after the first day of *April* next coming, no justice or justices of peace shall let to bail or mainprise any such person or persons, which for any offence or offences by them or any of them committed, be declared not to be replevised or bailed, or be forbidden to be replevised or bailed by the statute of *Westminster primer*, made in the Parliament holden in the third year of the reign of King *Edward* the First.

None shall be let to bail which be forbidden to be bailed by the stat. of 3 Ed. 1. c. 15.

III. And furthermore, That any person or persons arrested for manslaughter or felony, or suspicion of manslaughter or felony, being bailable

No. VII.
1 & 2 P. & M. c. 13.

by the law, shall not after the said first day of *April* be let to bail or mainprise by any justices of peace, if it be not in open sessions, except it be by two justices of peace at the least, whereof one to be of the *quorum*, and the same justices to be present together at the time of the said bailment or mainprise; which bailment or mainprise they shall certify in writing subscribed or signed with their own hands, at the next general gaol-delivery to be holden within the county where the said person or persons shall be arrested or suspected.

The justice's duty in bailment of a prisoner.

IV. And that the said justices, or one of them being of the *quorum*, when any such prisoner is brought before them for any manslaughter or felony, before any bailment or mainprise, shall take the (1) the examination of the said prisoner, and information of them that bring him, of the fact and circumstances thereof, and the same, or as much thereof as shall be material to prove the felony, shall put in writing, before they make the same bailment; which said examination, together with the said bailment, the said justices shall certify at the next general gaol-delivery to be holden within the limits of their commission.

Examination of him and others, and certifying thereof, 2 & 3 P. & M. c. 10.

The coroner's duty upon an inquisition found before him.

V. And that every coroner, upon any inquision before him found, whereby any person or persons shall be indicted for murder or manslaughter, or as accessory or accessories to the same before the murder or manslaughter committed, shall put in writing the effect of the evidence given to the jury before him, being material: And as well the said justices as the said coroner, shall have authority by this Act to bind all such by recognizance or obligation (2), as do declare any thing material, to prove the said murder or manslaughter, offences or felonies, or to be accessory or accessories to the same as is aforesaid, to appear at the next general gaol-delivery to be holden within the county, city or town corporate, where the trial thereof

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(1) In Rex *v.* Paine, 1 Salk. 281, the court ruled that the depositions taken in a case of misdemeanor could not be read, the witness being dead. The court said, that in case of felony such depositions might be used in evidence by this statute, but it could not be extended further. "But there is nothing in this Act, or in the next number, (which extends the same provisions to cases where the prisoner is committed) which ordains, that if the deponent die his depositions may be given in evidence on the trial. In 2 Hale, P. C. 52, it is said, 'The examinations, (*viz.* of the party accused) may be read in evidence against the prisoner, and so may the information of witnesses taken upon oath, if they are dead, or not able to travel, for they (the justices) are judges of record, and the statute enables and requires them to take these examinations.' The same position is in 1 Hale, 305. In 2 Hawk. ch. 46. § 6. it is said, that the examination of an informer, taken by virtue of these statutes, may be given in evidence at the trial of the inquisition or indictment, if it be made out by oath to the satisfaction of the court that such informer is dead, or unable to travel, or kept away by the means or procurement of the prisoner. Sir Mic. Foster, enumerating the instances wherein the law makes a difference between the cases of *petit* treason and murder, says that, 'Upon the foot of 5 and 6 Ed. VI. informations taken before justices of peace are not evidence to ground a conviction for *petit* treason if the party be living, though unable to travel, or kept out of the way by the prisoner;' Cro. Law. 337; plainly intimating his opinion of the admissibility of such evidence in cases of felony. In Webster's case, Leach's Cro. Ca. 14. the information of an accomplice who died before trial, is said to have been adjudged by Ld. Ch. Justice Lee to be admissible. In Bromwich's case, 1 Lev. 180. 2 Jon. 53. it was ruled that depositions before a coroner were evidence, if the witness was dead or beyond sea; but according to the report in Jon. it was said, that those taken before a justice of peace can in no case be read. *Vide* 1 Kelynge, 55 Harrison's case, State Trials, 941. The weight of authorities upon the point seems to be such, that it would be too late to resort to reasoning upon the construction of the Act, although (were such reasoning not excluded) the exposition which has been given to it may be very disputable. *Vide* 3 T. R. 707, Rex *v.* Eriswell." Editor's note to Rex *v.* Paine, in the sixth edition of Salkeld.

(2) In 2 Hale, P. C. 282. it is said, that the justices who take the examination of witnesses may, before the trial, bind over the witnesses to appear at the sessions, and in case of their refusal to come, or to be bound over, may commit. In Barnet *v.* Wilson, 3 M. and S. 1. it was held, that no action could be maintained for committing a *feme covert*, who did not find surety to appear at the trial, and said "*she would not go; and nobody should make her.*" The decision was founded upon the positive act of refusal; but, from some expressions of the court, it may be inferred to be the inclination of their opinion, that a magistrate may commit an infant or *feme covert*, not finding sureties to appear to give

No. VII. 1 & 2 P. & M. c. 13.

shall be, then and there to give evidence (1) against the party so indicted at the time of his trial; and shall certify as well the same evidence as such bond or bonds in writing, as he shall take, together with the inquisition or indictment before him taken and found, at or before the time of his said trial thereof to be had or made: And likewise the said justices shall certify all and every such bond taken before them, in like manner as before is said of bailments and examination: And in case any justice of peace or *quorum*, or coroner, shall after the said first day of *April* offend in any thing contrary to the true intent and meaning of this present Act, that then the justices of gaol delivery of the shire, city, town or place, where such offence shall happen to be committed, upon due proof thereof by examination before them, shall for every such offence set such fine on every of the same justices of peace and coroner, as the same justices of gaol-delivery shall think meet, and shall estreat the same, as other fines and amerciaments assessed before justices of gaol-delivery ought to be.

The penalty of any justice of peace or coroner omitting his duty.

Justices of peace of London, Middlesex, &c.

VI. Provided always, and be it further enacted by the authority aforesaid, That justices of peace and coroners within the city of *London* and the county of *Middlesex*, and in other cities, boroughs and towns corporate within this realm and *Wales*, shall within their several jurisdictions have authority to let to bail felons and prisoners, in such manner and form as they have been heretofore accustomed; this Act or any thing therein contained to the contrary notwithstanding: And also shall take examinations and bonds, as is aforesaid upon every bailment by them or any of them to be made; and shall certify every such bailments, bonds and examinations by them or any of them taken or made, at the next gaol-delivery to be holden within the shire, city, borough or town, where their several jurisdictions extendeth, upon like pain and forfeiture as is before limited in this present Act.

Removing of a prisoner or recognizance.

VII. And be it also enacted by the authority aforesaid, That no writs of *Habeas Corpus* or *Certiorari* shall be hereafter granted to remove any prisoner out of any gaol, or to remove any recognisance, except the same writs be signed with the proper hands of the Chief Justice, or in his absence one of the justices of the court out of which the same writs shall be awarded or made; upon pain that he that writeth any such writs, not being signed as aforesaid, do forfeit to our said Sovereign Lord the King and the Queen, for every such writ or writs, five pounds.

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evidence for felony. And in the argument of counsel for the defendant it is said to be the uniform practice, in case both of infants and married women, to require a recognizance of some third person, if they refuse to appear, and in case of refusal of such recognizance, to commit.

I have no doubt that there have been many instances of such commitment; but, from a long acquaintance with magisterial functions, I am satisfied that it is very far from being an uniform practice; and I think it would be extremely dangerous if the law appeared to be otherwise upon principle, to allow the number of instances which might be shewn to have taken place, of such commitments, to have any influence on the decision of the question, unless such instances had been expressly sanctioned by the authority of the superior courts, more especially when it is considered that those who, from their situation, would be unable to procure the requisite surety, would, in almost every instance, be equally unable to find the means of redress, either by action or by writ of habeas corpus. I very well remember having read an account of Lord Kenyon incidentally mentioning, that he had seen a calendar of prisoners which contained such a commitment, and expressing a decided opinion of its illegality. The commitment in case of wilful refusal seems to be a fair exertion of the implied authority given by the statute; but, that the inability of an infant or married woman to find collateral surety for appearing to testify the injury which they suffered, or the crimes of which they may be cognizant, should be a ground for immuring them in a prison from one assizes to another, is an injustice so flagrant and palpable, that it ought not to be imputed to the law upon any less authority than the most express and unequivocal mandate of the legislature: and such commitments, to use the language of Sir Joseph Yates with respect to general warrants, (Money *v.* Leach, 1 Bl. Rep. 555.) ought to be held so totally bad, that an usage even from the foundation of Rome itself would not make them good.

(1) Quære, If the magistrate can also compel a recognizance to prefer an indictment? —I was once consulted upon this question, where the person in whose name a forgery had been committed was willing to be bound to give evidence, but refused to enter into the recognizance to prefer the indictment, and did not feel that I could safely advise the magistrate to commit.

[No. VIII.] 2 and 3 Philip and Mary, c. 10.—An Act to take Examination of Prisoners suspected of any Manslaughter or Felony *.

No. VIII. 2 & 3 Philip and Mary, c. 10.

'WHEREAS in the last Parliament holden at *Westminster*, amongst other 'things it was enacted, That such justices of the peace as have authority to bail any prisoners brought before them for any manslaughter or felony, before any bailment or mainprise, should take the examination of the said prisoner, and information of them that bring him, of the fact and circumstances thereof, and the same, or as much thereof as shall be material to prove the felony, shall put in writing before they make the same bailment; which said examination, together with the said bailment, the said justices shall certify at the next general gaol-delivery to be holden within the limits of their commission, as by the same Act more plainly is contained, and may appear:

Justices of peace shall examine persons arrested of felony, &c. and shall bind their accusers to give evidence against them.

II. 'And forasmuch as the said Act doth not extend to such prisoners as shall be brought before any justices of peace for manslaughter or felony, and by such justice shall be committed to ward for the suspicion of such manslaughter or felony, and not bailed, in which case the examination of such prisoner, and of such as shall bring him, is as necessary, or rather more than where such prisoner shall be let to bail or mainprise:' Be it therefore enacted by the authority of this present Parliament, That from henceforth such justice or justices before whom any person shall be brought for manslaughter or felony, or for suspicion thereof, before he or they shall commit or send such prisoner to ward, shall take the examination of such prisoner, and information of those that bring him, of the fact and circumstance thereof, and the same, or as much thereof as shall be material to prove the felony, shall put in writing within two days after the said examination; and the same shall certify in such manner and form, and at such time, as they should and ought to do, if such prisoner so committed or sent to ward had been bailed or let to mainprise, upon such pain as in the said former Act is limited and appointed for not taking, or not certifying, such examinations as in the said former Act is expressed. And be it further enacted, That the said justices shall have authority by this Act, to bind all such by recognisance or obligation, as do declare any thing material to prove the said manslaughter or felony against such prisoner as shall be so committed to ward, to appear at the next general gaol-delivery to be holden within the county, city or town corporate where the trial of the said manslaughter or felony shall be, then and there to give evidence against the party, and that the said justices shall certify the said bonds taken before them, in like manner as they should and ought to certify the bonds mentioned in the said former Act, upon pain as in the said former Act is mentioned, for not certifying such bonds as by the said former Act is limited and appointed to be certified.

A justice of peace shall examine him that is suspected of felony, before he be committed to prison.

Binding of the accusers to give evidence against the prisoner.

* See the Notes to the last Number.

[No. IX.] 4 George III. c. 10.—An Act for the more easy discharge of Recognizances estreated into his Majesty's Court of Exchequer.

No. IX. 4 Geo. III. c. 10.

'WHEREAS many recognizances have been estreated into his Majesty's Court of Exchequer against persons for not appearing as parties or witnesses in his Majesty's Courts of Record at *Westminster*, or at the assizes and general quarter sessions, or other Courts of Record in that part of *Great Britain* called *England*, or for not prosecuting indictments there, or otherwise not performing the conditions in such recognizances contained; many of which neglects of duty have happened by the inattention of ignorant people, some of whom are imprisoned, and a great number of others liable to be so, by the process constantly issued against them out of the Courts of *Exchequer*, and directed to the sheriffs, though no other prosecution be subsisting but merely for such forfeitures of their recognizances, from which there are no easy means at present, for poor persons especially, to procure any discharge:' For remedy whereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of

After May 1, 1764, the barons of the Ex-

No. IX. 4 Geo. III. c. 10.

chequer empowered to discharge, upon affidavit and petition, and without quietus sued, recognizances of persons estreated into the exchequer; Fee payable upon such order 1*l.* 1*s.* Debts due to the crown; cases of frauds by contraband trade; and assaulting officers of the revenue excepted.

the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the fifth day of *May* one thousand seven hundred and sixty-four, it shall be lawful for the barons of his Majesty's Court of *Exchequer*, upon affidavit and petition to be presented to them by or on the behalf of the person or persons imprisoned, or liable to be imprisoned, on the forfeiture of any such recognizances, to discharge such person or persons, by order from the said barons, without any *quietus* to be sued out for that purpose; for which order no more than one pound and one shilling shall be taken by the officer appointed to give out the same: Provided that no discharge shall be given on such petitions where any debt is due to the Crown, other than by the recognizances so prayed to be discharged; nor in any cases of defrauding his Majesty's revenue by contraband trade, or assaulting his Majesty's officers of the customs or excise in the execution of their duty, or any person or persons lawfully assisting them therein.

[No. X.] 48 George III. c. 58.—An Act for amending the Law with regard to the Course of Proceeding on Indictments and Informations in the Court of King's Bench in certain Cases; for authorising the Execution in *Scotland* of certain Warrants issued for Offences committed in *England*; and for requiring Officers taking Bail in the King's Suit to assign the Bail Bonds to the King.—[1*st June*, 1808.]

[See A. 12, suprà.]

(C)

INDICTMENTS—INFORMATIONS—AND OTHER CRIMINAL PROSECUTIONS.

[No. I.] 9 Henry III. (Magna Charta) c. 34.—In what Case only a Woman shall have an Appeal of Death.

No. I. 9 Hen. III. c. 34.

'NO man shall be taken or imprisoned upon the appeal of a woman for the death of any other, than of her husband.'

[No. II.] 3 Edward I. c. 14.—Appeal against the Principal and Accessary.

[No. III.] 6 Edward I. c. 9.—One Person killing another in his own Defence, or by Misfortune. An Appeal of Murther.

[Inserted Cl. IV. No. 3.]

[No. IV.] 13 Edward I. st. 1. c. 12.—The Appellant being acquitted, the Appellor and Abetters shall be punished. There shall be no Essoin for the Appellor.

[No. V.] 13 Edward I. st. 1. c. 13.—The Order of the Indictments taken in the Sheriff's Turn.

[No. VI.] 1 Edward III. st. 2. c. 17.—Indictments in the Sheriff's Turn shall be by Roll indented.

[No. VII.] 28 Edward III. c. 9.—No Writ shall be directed to a Sheriff to charge an Inquest to indict any.

[No. VIII.] 4 Henry IV. c. 2.—The Words *Insidiatores viarum, &c.* shall not be put in any Indictments, &c.

[For the object of this Act see 3 Inst. 41.—Barrington on stat. 357].

[No. IX.] 1 Henry V. c. 5.—In which Original Writs Additions of the Defendants' Names shall be put.

[See Pt. IV. Cl. VI. No. 6.]

[No. X.] 7 Henry V. A. D. 1419.—A Remedy against those that indict others of Felony committed in a Place where there is none such. Process against Makers, &c. of false Deeds.

[No. XI.] 18 Henry VI. c. 12.—Appeals or Indictments of Felony committed in a Place where there is none such.

[No. XII.] 37 Henry VIII. c. 8.—The Act that any Indictment lacking these Words, *Vi & armis*, shall be good.

No. XII. 37 Hen. VIII. c. 8.

'WHERE before this time it was and yet is commonly used in all indictments and inquisitions of treason, murder, felony, trespass and divers other, to have comprized and put in every the same indictments and inquisitions these words, *Vi et armis*, and in divers of the same indictments to declare the manner of the force and arms; that is to say, *Vi et armis, videlicet, baculis, cultellis, arcubus et sagittis*, or such other like words in effect, where of truth the parties so indicted had no manner of such weapons at the time of the said offence committed and done; yet in default and lack of the same words, the said indictments were and yet be taken as void in the law, for to put any person to answer thereunto: And the party or parties so indicted, for lack of the same words not being comprized and put in the said indictments, have taken advantage thereof, and have avoided the same indictments by writ or writs of error, or by plea upon his or their appearance, as the same case did require:' For reformation whereof, be it enacted by the King our Sovereign Lord, with the assent of the Lords Spiritual and Temporal, and of the Commons, in this present Parliament assembled, and by the authority of the same, That from the feast of the nativity of our Lord God next coming, these words, *Vi et armis, viz. cum baculis, cultellis, arcubus et sagittis*, or such other like, shall not of necessity be put or comprised in any inquisition or indictment; nor that the party or parties being hereafter indicted of any offence, shall have or take any advantage by writ or writs of error, plea or otherwise, to annul or avoid any such inquisition or indictment, for that the said words *Vi et armis, viz. baculis, cultellis, arcubus et sagittis*, or any of the same or like words, shall not be put or comprised in the said inquisitions or indictments: But that the same inquisitions or indictments, and every of them, lacking the said words, *Vi et armis, viz. baculis, cultellis, arcubus et sagittis*, or any of them, shall from thenceforth, by the authority aforesaid, be taken, deemed and adjudged, to all intents, constructions and purposes, as good and effectual in the law, as the same inquisitions and indictments, having the said words, *Vi et armis, viz. baculis, cultellis, arcubus et sagittis*,

Indictments lacking *Vi & armis* shall be good in law.

The words *cum baculis cultellis, arcubus & sagittis*, shall not of necessity be put in an indictment.

No. XII.
37 Hen. VIII. c. 8.

comprised and put in every of the same inquisitions and indictments were or heretofore have been taken, deemed or adjudged; any law, usage or custom heretofore had and used to the contrary notwithstanding.

He that is attainted for the stealing of a horse shall not have the benefit of clergy.

II. And be it further enacted by the authority aforesaid, That if any person or persons, at any time after the said feast of the nativity of our Lord God next coming, do steal any horse, gelding, mare, fole or filly, and thereof be found guilty by the verdict of twelve men, or by his own confession be attainted, or otherwise be indicted for the stealing of any horse, gelding, mare, fole or filly, and thereupon arraigned, and do stand mute of malice or froward mind, or challenge peremptorily above the number of twenty, or else will not answer directly to the same indictment and felony whereupon he is so arraigned; that then every such person and persons shall not from henceforth be admitted to have the benefit of his or their clergy, but utterly be excluded thereof, and shall suffer death in such manner and form as they should have, if they were no clerks.

[No. XIII.] 4 and 5 William and Mary, c. 18.—An Act to prevent malicious Informations in the Court of King's Bench, and for the more easy Reversal of Outlawries in the same Court.

[See Pt. IV. Class XIV. No. 12.]

[No. XIV.] 4 and 5 William and Mary, c. 22.—An Act for regulating Proceedings in the Crown Office in the Court of King's Bench at *Westminster*.

No. XIV.
4 & 5 William and Mary, c. 22.

FOR rectifying the proceedings in the Crown Office in their Majesties Court of *King's Bench*, and for the greater ease of all their Majesties subjects who shall hereafter be prosecuted in the same; be it enacted by the King's and Queen's most excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That no corporation, lord or lords of manors, or other person or persons, having grants by charter, or other good conveyances, who have inrolled, and had the same allowed, in and by the said Court, shall hereafter be compelled to plead the same, to any inquisition returned by any coroner; any custom or usage to the contrary notwithstanding: And if there be any corporations, lord or lords of manors, or other person or persons, who now have or hereafter shall have such charters or grants from the crown, for felons goods, deodands, and other forfeitures, such corporations, lords of manors, and other persons, shall not be compelled to inroll their whole charters and grants, but bring in the same to the clerk of the crown of the said Court, he shall inroll and enter upon record so much thereof, as may express and set forth the grants of such felons goods, deodands, and forfeitures, and no more; for doing whereof he shall have and receive twenty shillings for his fee and entry thereof, and no more; and from and after such inrollment, no corporation, lord of manor, or other person or persons, grantees of such goods or forfeitures, shall be compelled to plead the same in the said Court, to any inquisition thereafter filed therein, touching any goods found thereby; any usage to the contrary notwithstanding.

Persons having grants by charters and inrolled, not bound to plead them to an inquisition.

How much of grants, &c. must be entered.

After such entry, grantee discharged from pleading to inquisition.

II. And be it further enacted by the authority aforesaid, That if any clerk of the crown of the said Court shall hereafter issue out any process against any corporation, lord of manor, or other person or persons grantees of such felons goods, deodands, and other forfeitures, after inrollment or entry as aforesaid, the said clerk of the crown shall, for every offence, forfeit and pay to the corporation or party grieved thereby, the sum of five pounds, to be recovered by bill, plaint, or information, in any of their Majesties Courts of Record at *Westminster*, wherein no essoin, privilege, protection, or wager of law, shall be admitted, nor any more than one imparlance.

Penalty upon clerk of the crown issuing process after such entry;

III. 'And whereas divers persons, having grants of felons goods and deo-

No. XIV. 4 & 5 William and Mary, c. 22.

'dands, and inrolled and pleaded as aforesaid, do many times alien and 'convey their interests therein to other person or persons, or by their last 'wills do devise the same, or by their deaths such estate do descend to 'their heirs, whereby the clerk of the crown of the said Court is rendered 'uncapable to discern where such interest lies, until the person or persons, 'to whom such estates are conveyed, devised, or descended, shall come 'into the said Court, and make entry of such their claim as aforesaid;' be it therefore hereby further enacted by the authority as aforesaid, That the clerk of the crown of the said Court for the time being, nor any succeeding clerk there, shall incur any penalty mentioned in this Act, for issuing process against any person or persons, who shall not, upon every purchase of the title of such felons goods and deodands, inroll and plead the same purchase in the said Court; nor against any devisee of the like estate, who shall not likewise inroll or plead such devise; nor against any heir who shall not in like manner inroll his or her right by descent to the same, and until after such pleas have been allowed of, and approved by the said Court; nor where by any inquest of any coroner or coroners, the goods of any felon or felons, or deodands, shall be by such inquest not found to be in the hands of such purchaser, devisee, or heir, or their respective officer or officers in trust for them respectively.

except against heirs, &c.

IV. 'And whereas it is agreeable to justice that proceedings to outlaw- 'ries in criminal causes should be as publick and notorious as in civil causes, 'because the consequences to persons outlawed in criminal causes are more 'fatal and dangerous to them and their posterities, than in any other causes;' be it further enacted by the authority aforesaid, That upon the issuing of any exigent out of any of their Majesties Courts, against any person or persons for any criminal matter, before judgment or conviction, there shall issue out a writ of proclamation, bearing the same test and return, to the sheriff or sheriffs of the county, city, or town corporate, where the person or persons in the record of the said proceedings is or are mentioned to be or inhabit, according to the form of the statute made in the one and thirtieth year of the reign of the late Queen *Elizabeth*, of blessed memory, which writ of proclamation shall be delivered to the said sheriff or sheriffs three months before the return of the same.

A proclamation at the time of the exigent in criminal cases, to be delivered three months before return.

31 El. c. 3.

V. Provided always and be it enacted by the authority aforesaid, That this Act shall continue and be in force for three years, from the five and twentieth day of *March*, one thousand six hundred ninety three, and from thence to the end of the next session of Parliament, and no longer. [Made perpetual by 7 and 8 W. III. cap. 36. §. 4.]

Act to continue three years.

(D.)

PROCESS—OUTLAWRY.

[No. I.] 28 Edward I. st. 2.—What process shall be awarded against those that be appealed by Approvors.

[No. II.] 5 Edward III. c. 11.—Process against those that be appealed, indicted, or outlawed in one County, and remain in another.

[No. III.] 5 Edward III. c. 13.—What is requisite where any Person will avoid an outlawry by Imprisonment.

[See Pt. IV. Cl. IV. No. 2.]

[No. IV.] 18 Edward III. st. 1.—Declaring in what Cases and for what Offences Exigents shall be awarded.

Cotton *MS. Nero, C.* 1.

No. IV. 18 Edw. III. st. 1.

ACCORDE est et establi qe desore de ceux qe serrount ou ount estee resceivours dez deniers le Roy ou de sez leyns queux ils pernent du poeple e lez alloignent et deteignent issint qe nostre Seignur le Roi ne poet ent estre suy de ceux qe ameignent lez leynz per dela saunz estre cokettez ou saunz paier custume et subsidie as queux ils sount assis et dez custumers et tronours queux les suffrent as damage le Roy et de les ministers qe resceivent lez deniers le Roy et lez reteignent conspiratours et maintenours dez faux querelz et de ceux qe mesnent routez en presence des justices ou dautres ministrez le Roy ou aillours es counteez en affray de poeple issint qe la ley ne se poet pas ent faire et auxibien de ceux qe portent ou veignent en lour compaignez come de ceux qe portent le faux monee en desceit de poeple toutz ceux en cas qe ils ne purrount estre trouvez ou mesnez en responce per attachement ou distress pur le profit le Roi qe lexigend soit don et suy et nemye dez autres.

[No. V.] 18 Edward III. st. 2. c. 5.—No Exigent shall be granted in Trespass, but where it is against the Peace.

No. V. 18 Edw. III. st. 2. c. 5.

'ITEM, That no exigent shall from henceforth go out, in case where a man is indicted of trespass, unless it be against the peace, or of things which be contained in the declaration made in this case at the last Parliament holden at *Wesminster*.'

[No. VI.] 25 Edward III. st. 5. c. 14.—What Process shall be awarded against him that is indicted of Felony.

No. VI. 25 Edw. III. st. 5. c. 14.

'ITEM it is accorded, That after any man be indicted of felony before the justices in their sessions to hear and determine, it shall be commanded to the sheriff to attach his body by writ or by precept, which is called a *capias*. And if the sheriff return in the same writ or precept, that the body is not found, another writ or precept of *capias* shall be incontinently made, returnable at three weeks after. And in the same writ or precept it shall be comprised, that the sheriff shall caused to be seised his chattles, and safely to keep them till the day of the writ or precept returned. And if the sheriff return, that the body is not found, and the indictee cometh not, the exigend shall be awarded, and the chattles shall be forfeit, as the law of the Crown ordaineth; but if he come and yield himself, or be taken by the sheriff, or by other minister, before the return the second *capias*, then goods and chattles shall be saved.' (1)

(1) Vide Rex *v.* Yandell, 4 T. R. 521.

[No. VII.] 2 Henry V. stat. 1. c. 5.—Process against Felons dwelling in *Tyndal* or *Exhamshire* in *Northumberland*.

[No. VIII.] 2 Henry V. stat. 1. c. 9.—A Remedy to punish him that doth commit Felony, and flee into an unknown Place.

[No. IX.] 9 Henry V. st. 1. c. 7.—The Statute provided 2 *H.* V. *Stat.* 1. *c.* 5. for Offenders in *Tyndal* and *Exhamshire*, shall be extended against the like Offenders in *Ridesdale*.

[No. X.] 6 Henry VI. c. 1.—Within what Time a *Capias*

awarded against any Person indicted in the King's Bench, shall be returnable.

No. X. 6 Henry VI. c. 1.

"FIRST, For that divers of the King's faithful subjects, by false practice, "covin, and conspiracy of certain evil persons, be indicted before our "Lord the King in his Bench, of divers felonies and treasons, by suspect "jurors, hired and procured to the same by confederacy and covin of the "said conspirators; by force of which indictments a *capias* is awarded to "the sheriffs of the county where the said Bench is, returnable within two "or four days, at which day, if the party so indicted come not, an *exigent* "is awarded, whereby the goods and chattles of such persons indicted be "forfeit to our Lord the King, to the utter undoing of divers of the King's "faithful subjects, as the same our Lord the King hath conceived by the "grievous complaint of the said Commons, made to him in the said Par-"liament;" 'our said Lord the King, willing in this case to provide re-'medy, hath ordained, by the advice and assent aforesaid, That before any '*exigent* be awarded against such persons indicted before the King in his 'said Bench, writs of *capias* shall be directed as well to the sheriff or 'sheriffs of the county wherein they be indicted, as to the sheriff or sheriffs 'of the county whereof they be named in the indictments; the same '*capias* having the space of six weeks at the least, or longer time, by the 'discretion of the said justices, if the case require it, before the return of 'the same; which writs so returned, the justices shall proceed in the man-'ner as they have done before this time: And if any *exigent* be awarded, or 'any outlawry pronounced hereafter against such persons indicted, before 'the return of the said writs, the same *exigent* so awarded, with the out-'lawry thereof pronounced, shall be void and holden for none. And this 'ordinance shall endure as long as shall please the King.'

[No. XI.] 8 Henry VI. c. 10.—Process awarded against those which dwelling in foreign Counties be indicted or appealed.

No. XI. 8 Henry VI. c. 10.

The inconveniencies of indicting or appealing any person in one county that is conversant in another.

"ITEM, Our Lord the King considering how divers persons for their pri-"vate revenge, and not of right, maliciously by subtile imagination have "caused and procured many of his faithful liege people falsely to be in-"dicted and appealed of several treasons, felonies, and trespasses, before "justices of the peace, and other commissioners and justices, and others "having power to take indictments or appeals in divers foreign counties, "liberties, and franchises of *England* in which the said lieges be not, nor "at any time were, conversant nor dwelling; by force of which indict-"ments and appeals, and the processes upon them made in the said coun-"ties, franchises, and liberties, the said persons, so indicted, have been, "and daily be put in *exigent*, and after outlawed, and thereupon their "goods and chattles, lands and tenements forfeit, and they in great jeopardy "of their lives, whereas the said persons so indicted, appealed, or put in "*exigent*, or outlawed, had never knowledge of such indictments, appeals, "*exigents*, or outlawries; which falshood and malice daily doth abound "and increase in divers counties, liberties, and franchises of *England*, in "great hinderance, loss, and perpetual destruction of many of his said "faithful and innocent liege people, and very likely to increase hereafter, "if convenient remedy be not ordained and provided in this behalf."

Process upon indictments of persons dwelling in foreign counties.

II. 'And therefore the same our Lord the King, of his special grace, and 'by authority of this Parliament, for ease and tranquillity of his faithful 'lieges of this realm, hath cause to be ordained and stablished, That upon 'every indictment or appeal by the which any of the said lieges dwelling in 'other counties than there where such indictment or appeal is or shall be 'taken of treason, felony, and trespass, to be taken hereafter before the 'justices of peace, or before any other having power to take such indict-'ments or appeals, or other commissioners or justices in any county, fran-'chise, or liberty of *England*, before any *exigent* awarded upon any indict-'ment or appeal in the form aforesaid to be taken, that presently after the 'first writ of *capias* upon every such indictment or appeal awarded and re-

No. XI. 8 Henry VI. c. 10.

'turned, that another writ of *capias* be awarded, directed to the sheriff of 'the county, whereof he which is so indicted is or was supposed to be con- 'versant by the same indictment, returnable before the same justices or 'commissioners before whom he is indicted or appealed at a certain day, 'containing the space of three months from the date of the said last writ, 'where the counties be holden from month to month; and where the 'counties be holden from six weeks to six weeks, he shall have the space of 'four months, until the day of the return of the same writ; by which writ 'of second *capias*, be it contained and commanded to the same sheriff, to 'take him which is so indicted or appealed, by his body, if he can be found 'within his bailiwick, and if he cannot be found within his bailiwick, 'that the said sheriff shall make proclamation in two counties before 'the return of the same writ, that he which is so indicted or appeal- 'ed shall appear before the said justices or commissioners in the county, 'liberty, or franchise where he is indicted or appealed, at the day contain- 'ed in the said last writ of *capias*, to answer to our Lord the King, or to 'the party, of the felony, treason, or trespass, whereof he is so indicted or 'appealed; after which second writ of *capias* so served and returned, if he 'which is so indicted or appealed come not at the day of the same writ of 'capias returned, the *exigent* shall be awarded against such persons indicted 'or appealed, and every of them.'

III. 'And if any exigent hereafter be awarded upon any such indictment 'or appeal against the form aforesaid, or any outlawry be upon that pro- 'nounced, as well the *exigent* so awarded, as the outlawry upon that pro- 'nounced, and every of them, shall be holden for none and void; and that 'the party upon whom such exigent against the form aforesaid is awarded, 'or outlawry pronounced, be not endamaged, nor put to loss of his goods 'or chattles, lands, or tenements, nor of his life.'

An action upon the case maintainable by the party indicted or appealed, against the procurer of the same.

IV. 'Provided always, That the statute made in the last Parliament, of 'processes to be made in such cases before the King in his Bench, stand in 'his force. And moreover, the same our Lord the King hath granted by 'authority aforesaid, That every person indicted or appealed in the form 'aforesaid from henceforth, after that he be duly acquit by verdict, that he 'shall have a writ and action upon his case, against every procurer of such 'indictments or appeals; and like process shall be upon and in the same 'writ, as in a writ of trespass done with force and arms; and if such pro- 'curer be attainted in his behalf, that the plaintiff shall recover his treble 'damages.'

V. 'Provided always, That this ordinance shall not extend to indict- 'ments or appeals taken or to be taken within the county of *Chester*.'

A man indicted or appealed in the country where he is conversant shall be prosecuted as formerly.

VI. 'Provided also, That if any of the said lieges, or any of their heirs, 'be or shall be appealed or indicted of felony or treason, and at the time 'of the same felony or treason supposed, he is and was conversant within 'the county whereof the indictment or appeal maketh mention, the like 'process be made against such person so indicted or appealed, as hath been 'always used before this time.'

[No. XII.] 10 Henry VI. c. 6.—What Process shall be awarded upon an Indictment removed into the King's Bench.

No. XII. 10 Hen. VI. c. 6.

"ITEM, Whereas in the Parliament holden at *Westminster* the eighth "year of the king that now is, it was ordained, That upon every indict- "ment or appeal, by the which any of the King's liege people, dwelling in "other foreign and divers counties than where such indictment or appeal is "or shall be taken, of treason, felony, or trespass, to be taken hereafter be- "fore justices of peace, or before any other justice whatsoever, having "power to take such indictment or appeals, or other commissioners or jus- "tices in any county, franchise, or liberty of *England*, before any exigent "awarded upon any indictment or appeal in the form aforesaid to be taken, "that presently after the first writ of *capias* upon every such indictment or "appeal awarded and returned, that another writ of *capias* shall be award- "ed, directed to the sheriff of the county, whereof he that is so indicted or "appealed is or was supposed to be conversant by the same indictment or

No. XII. 10 Hen. VI. c. 6.

" appeal, returnable before the same justices or commissioners, before whom " he is indicted or appealed, at a certain day, containing the space of three " months from the date of the same writ to the return of the same, as by " the same statute plainly appeareth. By which clause of the same statute, " that is to say, returnable before the same justices or commissioners before " whom he is indicted, or appealed, some do think that the writ of " *capias* ordained by the said statute, which shall be directed to the Sheriff " of the county, whereof he that is so indicted or appealed is or was sup- " posed to be conversant by the same indictment or appeal, shall be re- " turned before the same justices or commissioners, or other, before whom " the indictment or appeal was taken, and not elsewhere: and imagining " to defraud and make frustrate the said statute, do sue to remove such " indictments and appeals out of the hands of the justices or commissioners " aforesaid into the King's Bench and elsewhere, by *certiorari* and other- " wise, unknown to the party so indicted or appealed, and thereupon sue " the process used at the common law before the making of the said sta- " tute in the King's Bench and elsewhere, after the removing, to the great " impoverishing and vexation of the King's faithful subjects." ' Wherefore ' the same our Lord the King, by the advice and assent aforesaid, and at ' the special request of the said Commons, by authority aforesaid hath or- ' dained, That the said statute be holden and kept, and put in due execu- ' tion in all points; joined to the same, that if any such indictments taken, ' or to be taken before any justices of peace, or before any other having ' power to take such indictments or appeals, or other justices or commis- ' sioners in any county, franchise, or liberty of *England*, shall be removed ' before the King in his Bench or elsewhere, by *certiorari* or otherwise, ' then after such removing, before any exigent awarded upon any such in- ' dictment or appeal in the form aforesaid taken, or to be taken, that pre- ' sently after the first writ of *capias* upon every such indictment or appeal ' awarded and returned, that another writ of *capias* be awarded, directed ' to the sheriff of the county, whereof he that is so indicted or appealed is ' or was supposed to be conversant by the same indictment or appeal, re- ' turnable before the King in his Bench at a certain day, containing the ' space of three months, or four, from the date of the said last writ of ' *capias*, according to the manner and form that the justices of peace, and ' other in the said first statute contained, ought to have done, before such ' removing after the making of the said first statute, and moreover to make ' process according to the effect and purport of the said first statute. And ' if any such exigent be hereafter awarded upon any such indictment or ' appeal after such removing against the form aforesaid, or any outlawry ' thereupon pronounced, as well the same exigent so awarded, as the out- ' lawry thereupon to be pronounced, and every of them, shall be holden for ' none and void, according as in the said first statute is more fully contained.'

A confirmation of the statute 8 H. 6. c. 10. touching process upon indictments of persons dwelling in foreign counties.

Process when the aforesaid indictments, &c. are removed into the King's Bench.

[No. XIII.] 1 Edward IV. c. 2.—Justices of Peace may award Process upon Indictments taken in Sheriffs Tourns.

[No. XIV.] 4 and 5 William and Mary. c. 18.—An Act to prevent malicious Informations in the Court of King's Bench, and for the more easy Reversal of Outlawries in the same Court.

[See Pt. IV. Cl. IV. No. 12.]

[No. XV.] 4 and 5 William and Mary, c. 22.—An Act for regulating Proceedings in the Crown Office in the Court of *King's Bench* at *Westminster*.

(See C. 14, suprà.)

(E.)

CERTIORARI.

[No. I.] 21 James I. c. 8.—An Act to prevent and punish the Abuses in procuring Process and *Supersedeas* of the Peace and good Behaviour, out of his Majesty's Courts at *Westminster*, and to prevent the Abuses in procuring Writs of *Certiorari* out of the said Courts, for the removing of Indictments found before Justices of the Peace in their General Sessions.

(Vi. supra, A.)

[No. II.] 5 William and Mary, c. 11.—An Act to prevent Delays of Proceedings at the Quarter Sessions of the Peace.

No. II. 5 William and Mary, c. 11.

21 Jac. 1. c. 8, 13 & 14 Car. 2. c. 6. § 16. 22 Car. 2. c. 12.

'WHEREAS it is experienced that, notwithstanding the statutes made in the one and twentieth year of the reign of King *James* the first, and 'in the thirteenth and fourteenth and two and twentieth years of King 'Charles the Second, concerning the granting of writs of *certiorari*, to re- 'move indictments of riots, forcible entry, assault and battery, and other 'presentments and indictments out of the Courts of the general or quarter 'sessions of the peace, in the counties or places wherein such indictments 'have been found, and proceedings thereupon recorded, into their Ma- 'jesties Court of King's Bench, divers turbulent, contentious, lewd, and 'evil-disposed persons, fearing to be deservedly punished where they and 'their offences are well known, have not only obtained writs of *cer- 'tiorari* for removing such indictments found against them as aforesaid, 'but also indictments for sundry other trespasses, frauds, nuisances, con- 'tempts, and misdemeanors, after issue joined, and the prosecutors attend- 'ing with their council and witnesses to try the same before the said jus- 'tices of the peace in their said sessions, to the great discouragement of the 'prosecutors, and of such constables and other officers as, according to 'to their duty, present persons for those and such like trespasses, offences 'and misdemeanors;' For remedy whereof, and that such offenders may be brought to condign punishment:

Certiorari in term time grantable only upon motion.

II. Be it enacted by the King's and Queen's most excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in term time no writ of *certiorari* whatsoever at the prosecution of any party indicted (1), be hereafter granted, awarded, or directed out of the said Court of King's Bench, to remove any such indictment or presentment of trespass or misdemeanor, before trial had, from before the said justices in the said Courts of general or quarter sessions of the peace, unless such *certiorari* shall be granted or awarded upon motion of counsel, and by rule of Court made for the granting thereof, before the judge or judges of the said Court of King's Bench sitting in open Court, and

Recognizance to be given for trying the issue next assizes,

that all the parties indicted prosecuting such *certiorari*, before the allowance thereof shall find two sufficient manucaptors, who shall enter into a recognizance before one or more justices of the peace of the county or place, in the sum of twenty pounds (2), with condition at the return of such writ to appear and plead to the said indictment or presentment in the said Court of King's Bench, and at his and their own costs and charges to

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(1) The Crown (if the defendant be one of its officers, or if, for any other reason, it take up his defence) may have a *certiorari* in the name of the defendant, without laying any special ground. See cases cited in note 1 East, 304. In such case the directions of this Act as to recognizances, &c. are not, in practice, ever applied.

(2) The recognizance is not discharged until all costs are paid, although exceeding 40*l.*; Rex v. Teal, 13 East, 4.

No. II. 5 William and Mary, c. 11.

cause and procure the issue that shall be joined upon the said indictment or presentment, or any plea relating thereunto, to be tried at the next assizes to be held for the county wherein the said indictment or presentment was found, after such *certiorari* shall be returnable, if not in the cities of *London*, *Westminster*, or county of *Middlesex*; and if in the said cities or county, then cause to procure it to be tried the next term after, wherein such *certiorari* shall be granted, or at the sitting after the said term, if the Court of King's Bench shall not appoint any other time for the trial thereof; and if any other time shall be appointed by the court, then at such other time, and to give due notice of such trial to the prosecutor, or his clerk in court; and that the said recognizance and recognizances, taken as aforesaid, shall be certified into the said Court of King's Bench, with the said *certiorari* and indictment, to be there filed, and the name of the prosecutor, (if he be the party grieved or injured), or some publick officer, to be indorsed on the back of the said indictment (1); and if the person prosecuting such *certiorari*, being the defendant, shall not, before allowance thereof, procure such manucaptors to be bound in a recognizance as aforesaid, the justices of the peace may and shall proceed to trial of the said indictment at the said sessions, notwithstanding such writ of *certiorari* so delivered.

except in London and Westminster.

Certiorari granted without recognizance void.

III. And be it further enacted, That if the defendant prosecuting such writ of *certiorari* be convicted (2) of the offence for which he was indicted, That then the said Court of King's Bench shall give reasonable costs to the prosecutor (3), if he be the party grieved or injured (4), or be a justice of the peace, mayor, bailiff, constable, headborough, tythingham, churchwarden, or overseer of the poor, or any other civil officer (5), who shall prosecute upon the account of any fact committed or done, that concerned him or them, as officer or officers, to prosecute or present (6); which costs shall be taxed according to the course of the said court; and that the prosecutor, for the recovery of such costs, shall, within ten days (7) after demand made of the defendant, and refusal of payment on oath, have an attachment granted against the defendant by the said court for such his contempt; and that the said recognizance shall not be discharged (8) till the costs so taxed shall be paid.

Officers prosecuting shall have double costs.

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(1) To intitle the prosecutor to costs, it is enough to prove that he was such by affidavit, without his name being indorsed; Rex *v.* Smith, 1 Bur. 54.

(2) This means an effectual conviction; and no costs can be taxed if the judgment is arrested; Rex *v.* Turner, 15 East, 570.

(3) If the costs are taxed in the life of the prosecutor, his representatives are intitled, although no personal demand was ever made by him; Rex *v.* Chamberlayne, 1 T. R. 103.

(4) The defendant solicited Mason to set fire to a house: Mason and one Glaston informed a magistrate, who bound them over to prosecute. Ruled that there could be no costs, for want of a party grieved; R. *v.* Ingleton, 1 Wils. 139. The prosecutor of an indictment for stopping a road, ruled to be a party grieved, he having used the road for some years; R. *v.* Williamson, 7 T. R. 32. Several persons were held entitled to costs under stat. 5 W. and M. c. 11. as prosecutors of an indictment, removed by *certiorari*, for not repairing a highway, one as constable of the manor within which the highway lay, the others as parties grieved, they having used the way for many years in passing and repassing from their houses to the next market town, and being obliged, by reason of the want of repair, to take a more circuitous route, Rex *v.* Taunton, St. Mary (Inhab.) 3 M. & S. 465. So persons dwelling near a steam engine, which affected their dwelling-houses, &c.; R. *v.* Dewsnap, 16 E. 194. Secus, where the prosecutor, in a case for stopping up a road, did not apply for two years, and it did not appear that he had ever used the road before it was stopped; and while it was stopped he declared that he did not care about it; R. *v.* Incledon, 1 M. and S. 268.

(5) A clerk of the peace, whose duty it is to draw up all presentments of constables, in form of indictments, was held to be intitled to costs, on a prosecution carried on by him; anon. cited 2 T. R. 47.

(6) A justice of peace indicting a gaoler for suffering a felon to escape, is not within the Act: the Court has always put a strict construction on the Act; R. *v.* Sharpless, 2 T. R. 47. A justice *presenting* a road, or indicting a constable for disobeying his order, would be intitled to costs; dict. ibid. A justice of peace *indicting* a road, ruled to be intitled to costs; R. *v.* Kettleworth, 5 T. R. 33.

(7) There can be no attachment until after the ten days have elapsed; R. *v.* Ireland, 3 T. R. 512.

(8) See n. 1. The bail are liable for costs, although the defendant die between the verdict and the day in bank; R. *v.* Finmore, 8 T. R. 409.

No. II. 5 William and Mary. c. 11.

Certiorari how grantable in vacation.

IV. Provided always, and be it enacted by the authority aforesaid, That in any of the vacations, writs of *certiorari* may be granted by any of the justices of their Majesties Court of King's Bench, whose names shall be indorsed on the said writ, and also the name of such person at whose instance the same is granted, and that the party or parties indicted, prosecuting such *certiorari* shall, before the allowance of such writ or writs of *certiorari*, find such sureties, in such sum, and with such conditions, as are before mentioned and specified in this present Act.

Certiorari in Chester, &c. how granted.

V. And be it further enacted by the authority aforesaid, That upon every *certiorari* granted or awarded within the counties palatine of *Chester*, *Lancaster*, or *Durham*, to remove indictments or presentments for any of the matters aforementioned, all the parties indicted prosecuting such *certiorari*, shall find such sureties, to be bound in such sums, and with such respective conditions, and at his or their own costs and charges shall cause and procure the issue joined upon the said indictments or presentments to be tried at the next assizes or general gaol delivery to be held for the said respective counties, and shall give like notice to the prosecutor, and, if convicted, shall be liable to like costs, to be taxed as is by this Act provided for in cases where the same are granted or awarded out of the Court of King's Bench at *Westminster*.

Certiorari upon repairing highways, &c.

VI. Provided always, and be it enacted by the authority aforesaid, That if any indictment or presentment be against any person or persons for not repairing of any highways, causeways, pavements, or bridges, and the right or title to repair the same may come in question, upon such suggestion and affidavit made of the truth thereof, a *certiorari* may be granted to remove the same into the Court of King's Bench; any law or statute to the contrary in any wise notwithstanding. Provided nevertheless, That the party or parties prosecuting such *certiorari* shall find two manucaptors to be bound in a recognizance with condition as aforesaid.

To continue for 3 years.

VII. Provided always, and be it enacted by the authority aforesaid, That this Act shall continue and be in force for three years, and from thence to the end of the next session of Parliament, and no longer. [Made perpetual by 8 and 9 W. 3. cap. 33.]

[No. III.] 8 and 9 William III. c. 33.—An Act to make perpetual and more effectual an Act, intituled, *An Act to prevent Delays at the Quarter Sessions of the Peace.*

No. III. 8 and 9 William III. c. 33.

'WHEREAS an Act made in the fifth and sixth years of the reign of King *William* and the late Queen *Mary*, intituled, *An Act to prevent Delays of Proceedings at the Quarter Sessions of the Peace*, which was to continue and be in force for three years, and from thence to the end of the next session of Parliament, by experience hath been found useful and beneficial;' therefore, for continuing the same, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said Act shall be and is hereby continued, and shall be in force and made perpetual.

Act 5 & 6 W. & M. c. 11. made perpetual.

Party prosecuting any certiorari to remove an indictment may find two manucaptors to enter into a recognizance, &c.

II. And, for the making the purpose and design of the said Act more effectual, be it enacted by the authority aforesaid, that from and after the one and twentieth day of *April*, which shall be in the year of our Lord one thousand and six hundred ninety-seven, the party or parties prosecuting any *certiorari*, to remove any indictment or presentment from the quarter or general sessions of the peace, may find two sufficient *manucaptors*, who shall enter into a recognizance before any one of his Majesty's justices of the Court of King's Bench, in the same sum, and under the same condition, as is required by the said Act, whereof mention shall be made on the back of such writ, under the hand of the justice taking the same, which shall be as effectual and available, to all intents and purposes, to stay or supersede any further proceedings upon any indictment or presentment, for the removal of which the said writ of *certiorari* shall be granted, as if the recognizance had been taken before any one of the justices of the

peace of the county or place where such indictment was found, or presentment made; and also it shall be added to the condition of every recognizance taken by virtue of this and the said Act, that the party or parties prosecuting such writ of *certiorari*, shall appear from day to day in the said Court of King's Bench, and not depart until he or they shall be discharged by the said court.

No. III. 8 & 9 W. III. c. 33.

Party to appear daily in the King's Bench Court until discharged.

[No. IV.] 5 George II. c. 19.—An Act to oblige the Justices of the Peace at their General or Quarter Sessions to determine Appeals made to them according to the Merits of the Case, notwithstanding Defects of Form in the original Proceedings; and to oblige Persons suing forth Writs of *Certiorari* to remove Orders made on such Appeals into his Majesty's Court of King's Bench, to give Security to prosecute the same with Effect.

No. IV. 5 Geo. II. c. 19.

'WHEREAS in many cases where his Majesty's justices of the peace by 'law are empowered to give or make judgments or orders, great 'expences have been occasioned by reason that such judgments or orders 'have, on appeals to the justices of the peace at their respective general 'or quarter sessions, been quashed or set aside upon exceptions or objec-'tions to the form or forms of the proceedings, without hearing or ex-'amining the truth and merits of the matter in question between the par-'ties concerned:' Therefore to prevent the same for the future, may it please your most excellent Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That after the twenty-fourth day of *June* one thousand seven hundred and thirty-two, upon all appeals to be made to the justices of the peace at their respective general or quarter sessions to be holden for any county, riding, city, liberty or precinct, within that part of *Great Britain* called *England*, against judgments or orders given or made by any justices of the peace as aforesaid, such justices so assembled at any general or quarter sessions shall and they are hereby required from time to time, within their respective jurisdictions, upon all and every such appeals so made to them, to cause any defect or defects of form (1) that shall be found in any such original judgments or orders, to be rectified and amended without any costs or charge to the parties concerned, and after such amendment made, shall proceed to hear, examine and consider the truth and merits of all matters concerning such original judgments or orders, and likewise to examine all witnesses upon oath, and hear all other proofs relating thereto, and to make such determinations thereupon as by law they should or ought to have done, in case there had not been such defect or want of form in the original proceeding; any law, usage or custom to the contrary notwithstanding.

After 24 June 1732, justices may rectify defects of form on appeals, and may proceed to determine them.

II. 'And whereas divers writs of *certiorari* have been procured to remove 'such judgments or orders into his Majesty's Court of King's Bench at '*Westminster*, in hopes thereby to discourage and weary out the parties 'concerned in such judgments or orders, by great delays and expences:' Be it therefore enacted by the authority aforesaid, That no *certiorari* shall be allowed to remove any such judgment or order, unless the party or parties prosecuting such *certiorari*, before the allowance thereof, shall enter into a recognizance with sufficient sureties before one or more justices of the peace of the county or place, or before the justices at their general quarter sessions or general sessions (2) where such judgment or order shall have been given or made, or before any one of his Majesty's justices of

No certiorari to be allowed to remove justices' orders, without a recognizance of 50*l.* to prosecute to effect.

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(1) See Rex *v.* Bedwin, B. S. C. 165; R. *v.* Chilverscotton, 8 T. R. 178.

(2) As to this statute applying to cases of *certiorari*, to remove a conviction where there has been no appeal, see 8 T. R. 218, n.

No. IV. 5 Geo. II. c. 19.

the said Court of King's Bench in the sum of fifty pounds (1), with condition to prosecute the same at his or their own costs and charges with effect, without any wilful or affected delay, and to pay the party or parties, in whose favour and for whose benefit such judgment or order was given or made, within one month after the said judgment or order shall be confirmed (2), their full costs and charges, to be taxed according to the course of the court where such judgments or orders shall be confirmed; and in case the party or parties prosecuting such *certiorari* shall not enter into such recognizance, or shall not perform the conditions aforesaid, it shall and may be lawful for the said justices to proceed and make such further order or orders for the benefit of the party or parties for whom such judgment shall be given, in such manner as if no *certiorari* had been granted.

On refusal of recognizance justices to proceed.

Recognizances to be certified into the King's Bench.

III. And it is hereby further enacted by the authority aforesaid, That the recognizance and recognizances to be taken as aforesaid shall be certified into the Court of King's Bench at *Westminster*, and there filed with the *certiorari* and order, or judgment removed thereby; and if the said order or judgment shall be confirmed by the said court, the persons intituled to such costs for the recovery thereof, within ten days after demand made of the person or persons who ought to pay the said costs, upon oath made of the making such demand and refusal of payment thereof, shall have an attachment granted against him or them by the said court for such contempt, and the said recognizance so given, upon the allowing of such *certiorari*, shall not be discharged, until the costs shall be paid, and the order so confirmed shall be complied with and obeyed.

Attachment for contempt.

(1) The Act requires a single recognizance of 50*l.* and is not satisfied by a recognizance of the party and his sureties in 25*l.* each; but after a defective recognizance, a valid one may be taken; R. *v.* Dunn, 8 T. R. 217.

(2) If the case be sent down to be re-stated, and the prosecutor abandon it when returned, the court will discharge the recognizance; secus, if he dispute the amended order; R. *v.* Edgeworth, 4 T. R. 218.

P. [No. V.] 13 George II. c. 18.—An Act to continue several laws therein mentioned; * * * * * * * **and for the Time for suing forth Writs of Certiorari upon Proceedings before Justices of the Peace;** and for other Purposes.

No. V. 13 Geo. II. c. 18.

V. * AND for the better preventing vexatious delays and expence, occasioned by the suing forth writs of *certiorari*, for the removal of convictions, judgments, orders and other proceedings before justices of the peace: Be it further enacted by the authority aforesaid, That from and after the twenty-fourth day of *June*, which shall be in the year of our Lord one thousand seven hundred and forty, no writ of *certiorari* shall be granted, issued forth or allowed, to remove any conviction, judgment, order or other proceedings had or made by or before any justice or justices of the peace of any county, city, borough, town corporate or liberty, or the respective general or quarter sessions thereof, unless such *certiorari* be moved or applied for within six calendar months next after such conviction, judgment, order (1), or other proceedings (2) shall be so had or made, and unless it be duly proved upon oath that the said party or parties suing forth the same, hath or have given six days (3) notice thereof in writing to the justice or justices, or to two of them (if so many there be) by and before whom such conviction, judgment, order, or other proceedings shall be so had or made, to the end that such justice or justices, or

Writ of certiorari how to be applied for.

* See Pt. IV. Cl. III. No. 27, and Pt. VI. Cl. XI. No. 2, for other parts.

(1) If an order is made, reserving the case, the application must be made within six months after the order, and not merely within that time after settling the case; R. *v.* Justices of Sussex, 1 M. and S. 631, 734.

(2) The Act does not extend to indictments; R. *v.* Battams, 1 East, 298.

(3) The notice must be six days before applying for the rule to shew cause; R. *v.* Justices of Glamorgan, 5 T. R. 279.

the parties therein concerned, may shew cause, if he or they shall so think fit, against the issuing or granting such *certiorari*.

(F.)

ARRAIGNMENT AND TRIAL.—CRIMINAL COURTS:

§ 1. IN GENERAL.

[No. I.] 9 Henry III. (Magna Charta) c. 17.—Holding Pleas of the Crown.

No. I. 9 Henry III. c. 17.

'NO sheriff, constable, escheator, coroner, nor any other our bailiffs, shall hold pleas of our crown.'

[No. II.] 3 Edward I. c. 12.—The Punishment of Felons refusing lawful Trial.

No. II. 3 Edward I. c. 12.

'IT is provided also, That notorious felons, and which openly be of evil name, and will not put themselves in enquests of felonies that men shall charge them with before the justices at the King's suit, shall have strong and hard imprisonment, as they which refuse to stand to the common law of the land. But this is not to be understood of such prisoners as be taken of light suspicion.'

[No III.] 13 Edward I. st. 1. c. 29.—To whom only the Writ of Trespass of *Oyer* and *Terminer* shall be granted. In what Case the Writ of *Odio & Atia* is granted.

[No. IV.] 27 Edward I. st. 1. c. 3.—Justices of Assize shall be of Gaol-delivery, who shall punish Officers bailing such as are not bailable.

No. IV. 27 Edward I. st. 1. c. 3.

"FORASMUCH as sheriffs and others heretofore have let out by replevin common felons, and openly defamed, being taken and imprisoned for murther and other felonies, and such as be not replevisable, contrary to the form of our statute of persons replevisable and not replevisable, lately made, whereby such transgressors not replevisable being so replevied, do, in order deceitfully to obtain their delivery before the coming of the justices errant, or other assigned for their deliverance, procure and suborn, by their friends, the jurors of the country, and threaten others, whereby as well for fear of the sheriff, and other that let them at large by plevin, as for fear of the thieves being so delivered, before the justices assigned for gaol-deliveries, such felonies and murthers are concealed, and so being concealed, remain still unpunished;" 'We, for the utility of our realm, and for the more assured conservation of our peace, have provided and ordained, That justices assigned to take assizes in every county where they do take assizes, as they be appointed, incontinent after the assizes taken in the shires, shall remain both together if they be lay; and if one of them be a clerk, then one of the most discreet knights of the shire being associate to him that is a layman, by our writ shall deliver the gaols of the shires, as well within liberties as without, of all manner of prisoners, after the form of the gaol-deliveries of those shires beforetime used. And the same justices shall inquire then, if sheriffs or any other have let out by replevin prisoners not replevisable, or have offended in any thing contrary to the form of the aforesaid statute lately made at *Westminster*; and whom they shall find guilty, they shall

Justices of assize shall be also justices of gaol-delivery.

Punishment of sheriffs for their offence.

'chasten and punish in all things according to the form of the statute afore-'said.'

[No. V.] 28 Edward I. st. 3. c. 3.—Of what Things only the Marshall of the King's House shall hold Plea. Which Coroners shall enquire of the Death of a Man slain within the Verge*.

* At length Vol. V.

[No. VI.] 4 Edward III. c. 2.—The Authority of Justices of Assize, Gaol-delivery, and of the Peace.

[See Pt. IV. Cl. I. No. 11.]

[No. VII.] 15 Edward III. c. 2.—The Peers of the Realm, and great Officers, for great Offences, shall be tried in Parliament.

[No. VIII.] 25 Edward III. st. 5. c. 3.—No Indictor shall be put upon the Inquest of the Party indicted.

[No. IX.] 25 Edward III. st. 5. c. 4.—None shall be condemned upon Suggestion without lawful Presentment.

[No. X.] 42 Edward III. c. 3.—None shall be put to answer an Accusation made to the King without Presentment.

[No. XI.] 6 Richard II. st. 1. c. 5.—Justices of Assise, &c. shall hold their Sessions in principal Towns.

[No. XII.] 11. Richard II. c. 11.—The keeping of Assises in good Towns, referred to the Consideration of the Chancellor and Justices, &c.

[No. XIII.] 17 Richard II. c. 10.—Two learned Men in the Law shall be in Commission of Gaol Delivery.

[No. XIV.] 11 Henry IV. c. 9.—Jurors in Indictments shall be returned by the Sheriff, or Bailiffs, without the Denomination of any.

[No. XV.] 14 Henry VI. c. 1.—Justices of *Nisi Prius* may give Judgment of a Man attainted or acquitted of Felony.

No. XV. 14 Hen. VI. c. 1.

'FIRST, Our Lord the King hath ordained, by the authority of the said 'Parliament, That the justices before whom inquisitions, inquests, and 'juries, from henceforth shall be taken by the King's writ called *nisi prius*, 'according to the form of the statute thereof made, shall have power of all 'the cases of felony and of treason, to give their judgments, as well where

'a man is acquit of felony, or of treason, as where he is thereof attainted, 'at the day and place where the said inquisitions, inquests and juries be so 'taken, and then from thenceforth to be made by force of the same judg-'ments' (1). No. XV. 14 Hen. VI. c. 1.

(1) Upon indictment for murder, removed by *certiorari* into the King's Bench, the judge at nisi prius may pass sentence and award execution; R. *v.* Thomas, 4 M. and S. 442.

[No. XVI.] 20 Henry VI. c. 9.—The Order of Trial of Countesses, &c. being indicted of Treason, &c.

[No. XVII.] 3 Henry VII. c. 1.—The Authority of the Court of Star Chamber. Where one Inquest shall inquire of the Concealment of another. A Coroner's Duty after a Murder committed. A Justice of Peace shall certify his Recognizances, &c *.

No. XVII. 3 Hen. VII. c. 1.

'ITEM, The King remembering how murders and slaying of his subjects 'daily do increase in this land, the occasions whereof be divers; one, 'That men in towns where such murders hap to fall and be done, will not 'attach the murderer, where the law of the land is, That if any man be 'slain in the day, and the felon not taken, the township where the death 'or murder is done, shall be amerced; and if any man be wounded in pe-'ril of death, the party that so wounded should be arrested, and put in 'surety, till perfect knowledge be had, whether he so hurt should live or 'die: And the coroner upon the view of the body dead, should inquire of 'him or them that had done that death or murder, of their abettors and 'consenters, and who were present when the death or murder was done, 'whether man or woman, and the names of them that were present, and 'so found, to inrol and certify; which law by negligence is disused, and 'thereby great boldness is given to slayers and murderers; and over this it 'is used, that within the year and a day after any death or murder had or 'done, the felony should not be determined at the King's suit, for saving of 'the party's suit, wherein the party is oftentimes slow, and also agreed 'with, and by the end of the year all is forgotten, which is another occasion 'of murder. And also he that will sue any appeal, must sue in proper per-'son, which suit is long and costly, that it maketh the party appellant 'weary to sue.' For reformation of the premises, the King our Sovereign Lord, by the assent of the Lords Spiritual and Temporal, and Commons, in the said Parliament assembled, and by authority of the same, will that every coroner exercise and do his office according to the law, as is afore rehearsed; and that if any man be slain or murdered, and thereof the slayers, murderers, abetters, maintainers, and comforters of the same, be indicted, that the same slayers and murderers, and all other accessaries of the same, be arraigned and determined of the same felony and murder, at any time, at the King's suit, within the year after the same felony and murder done, and not tarry the year and day for any appeal to be taken for the same felony or murder; and if it happen any person named as principal or accessary, to be acquitted of any such murder at the King's suit, within the year and day, that then the same justices afore whom he is acquitted, shall not suffer him to go at large, but either to remit him again to the prison, or else to let him to bail, after their discretion, till that year and day be passed; and if it fortune the same felons or murderers, and accessaries so arraigned, or any of them, to be acquit, or the principal of the said felony, or any of them, to be attainted, the wife, or next heir to him so slain, as shall require, may take and have their appeal of the same death and murder within the year and day after the same felony and murder done, against the said persons so arraigned and acquit, and all other their accessaries, or against

The causes why murders be committed.

A coroner shall execute his office according to the law.

A murderer indicted shall be presently arraigned at the King's suit.

A murderer indicted and acquitted, shall not be set at liberty.

Appeal against him that was arraigned of murder.

* See infrà for other part.

No. XVII. 3 Hen. VII. c. 1.

Within what time, and before whom an appeal of murder shall be commenced.

The appellant may make his attorney.

the accessaries of the said principal, or any of them so attainted, or against the said principals so attainted, if they be on live, and the benefit of his clergy thereof before not had: And that the appellant have such and like advantage, as if the said acquittal or attainder had not been, the said acquittal or attainder notwithstanding; and over that the wife, or heir of the said person so slain or murdered, as the case shall require, may commence their appeal in proper person, at any time within the year after the said felony done, before the sheriff and coroners of the county where the said felony or murder was done, or before the King in his Bench, or justices of gaol-delivery; and the appellant in any appeals of murder or death of man, where battail by the course of the common law lieth not, may make their attornies, and appear by the same, in the said appeals after they be commenced, to the end of the suit, and execution of the same. And if any person be slain or murdered in the day, and the murderer scape untaken, that the township where the said deed is so done, be amerced for the said escape, and that the coroner have authority to inquire thereof upon the view of the body dead; and also justices of peace have power to inquire of such escapes, and that to certify afore the King in his Bench; and that after the felony found, the coroners deliver their inquisitions afore the justices of the next gaol-delivery, in the shire where the inquisition is taken, the same justices to proceed against such murderers, if they be in the gaol, or else the same justices to put the same inquisitions afore the King in his Bench.

The coroner's fee upon the view of a body slain.

And forasmuch as coroners had not nor ought to have any thing by the law for their office doing, which oft-time hath been the occasion that coroners have been remiss in doing their office; it is ordained, That a coroner have for his fee, upon every inquisition taken upon the view of the body slain *xiii s. iv d.* of the goods and chattels of him that is the slayer and murderer, if he have any goods, and if he have no goods, then the coroner have for his said fee, of such amerciaments as shall fortune any township to be amerced for escape of such murderer as is aforesaid.

[No. XVIII.] 6 Henry VIII. c. 6.—An Act for the remitting Prisoners with their Indictments to the Places where the Crimes were committed.

No. XVIII. 6 Hen. VIII. c. 6.

The justices of the King's Bench may remit prisoners out of the Court into the country to be tried.

'WHERE divers felons and murtherers, upon feigned and untrue surmises, have oftentimes removed, as well their bodies as their indictments, by writ and otherwise, before the King in his Bench, and cannot by the order of the law be remitted and sent down to the justices of gaol-delivery, or of the peace, ne other justices ne commissioners, to proceed upon them after the course of the common law:' Be it therefore ordained and enacted by authority of this present Parliament, That the justices of the King's Bench for the time being have full authority and power, by their discretions, to remand and send down, as well the bodies of all felons and murtherers brought or removed, or that shall be removed or brought, before the King in his Bench, as their indictments, into the counties where the same murthers or felonies have been committed and done; and to command all justices of gaol-delivery, justices of peace, and all other justices and commissioners, and every of them, to proceed and determine upon all the aforesaid bodies and indictments so removed, after the course of the common law, in such manner as the same justices of gaol-delivery, justices of peace, and other commissioners, or any of them might or should have done, if the said prisoners or indictments had never been brought into the said King's Bench.

[No. XIX.] 23 Henry VIII. c. 13.—An Act for Trial of Murders in Cities and Towns.

[See Class IV. No. X.]

[No. XX.] 25 Henry VIII. c. 3.—For such as stand mute, &c.

[See Cl. VII. No. 4.]

[No. XXI.] 2 and 3 Edward VI. c. 24.—An Act for Trial of Murders and Felonies committed in several Counties.

[See Cl. IV. No. 14.]

[No. XXII.] 1 Anne, st. 2. c. 9.—An Act for punishing Accessories to Felonies, and Receivers of stolen Goods, and to prevent the wilful burning and destroying of Ships.

[See the Act at length Cl. V. No. 27.]

No. XXII. 1 Anne, st. 2. c. 9.

If principal offender be convicted of felony, &c. it shall be lawful to proceed against accessory; who on conviction shall suffer the same punishment, &c.

'FORASMUCH as the counsellors and contrivers of theft and other felonies, and the receivers of goods that have been stolen, are the principal cause of the commission of such felonies; and as the law now is, no accessory can be convicted or suffer any punishment where the principal is not attainted, or hath the benefit of his clergy;' Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the twelfth day of *February* which shall be in the year of our Lord one thousand seven hundred and two, if any principal offender shall be convicted of any felony, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to serve of the jury, it shall and may be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding any such principal felon shall be admitted to the benefit of his clergy, pardoned, or otherwise delivered before attainder; and every such accessory shall suffer the same punishment, if he or she be convicted, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to serve of the jury, as he or she should have suffered if the principal had been attainted.

[No. XXIII.] 2 George II. c. 21.—An Act for the Trial of Murders, in Cases where either the Stroke or Death only happens within that Part of *Great Britain* called *England*.

[See Cl. IV. No. 18.]

[No XXIV.] 12 George III. c. 20.—An Act for the more effectual proceeding against Persons standing Mute on their Arraignment for Felony or Piracy.

No. XXIV. 12 Geo. III. c. 20.

Persons arraigned, standing mute, shall be convicted.

'FOR the more effectual proceeding against persons standing mute on their arraignment for felony, or piracy,' be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person, from and after the passing of this Act, being arraigned on any indictment, or appeal for felony, or on any indictment for piracy, shall upon such arraignment, stand mute, or will not answer directly to the felony, or piracy, such person so standing mute, as aforesaid, shall be convicted of felony or piracy charged in such indictment or appeal; and the court before whom he shall be so arraigned shall thereupon award judgment and execution against such person, in the same manner as if such person had been convicted by verdict or confession of the felony or piracy charged in such indictment or appeal; and such judgment shall have all the same consequences in every respect

No. XXIV. 12 Geo. III. c. 20.

as if such person had been convicted by verdict or confession of such felony or piracy, and judgment had been thereupon awarded.

II. And be it further enacted, That the provisions of this Act shall extend to his Majesty's colonies and plantations in *America*.

[No. XXV.] 19 George III. c. 74.—An Act to explain and amend the Laws relating to the Transportation, Imprisonment, and other Punishment, of certain Offenders.*

No. XXV. 19 Geo. III. c. 74.

LXX. 'AND whereas the courts of assize, *Nisi Prius*, oyer and terminer, and gaol-delivery, for several counties at large in this 'kingdom, are often held in or near cities or towns that are counties of 'themselves, and at the same time with the like courts for the said cities 'or towns; and inconveniences frequently arise, in transacting the busi- 'ness of the several courts, for that the lodgings of the judges are situate 'either only in the county at large, or only in the county of such city or 'town;' be it therefore further enacted, That whenever the courts of assize, *Nisi Prius*, oyer and terminer, or gaol-delivery, for any county at large, in that part of *Great Britain* called *England*, shall be held in or near any city or town that is also a county of itself, and at the same time with the like or any of the like courts for the said city or town, the lodgings of the judge or judges shall be construed and taken to be situate both within the county at large, and also within the county of such city or town, for the purpose of carrying this Act into execution, and of transacting the business of the assizes for such county at large, and for the county of such city or town, during the time that such judge or judges shall continue therein for the execution of their several commissions†.

Regulation relative to the lodgings of the judges at county assizes.

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* Made perpetual by 39 George III. c. 46. † See infrà for other part.

[No. XXVI.] 25 George III. c. 18.—An Act to impower the Justices of Oyer and Terminer and Gaol Delivery of *Newgate* for the County of *Middlesex*, to continue to hold a Session of Gaol Delivery of *Newgate*, begun to be holden before the Essoign Day of Term, and Sitting of the King's Bench at *Westminster*, notwithstanding the happening of such Essoign Day, or the Sitting of the said Court of King's Bench at *Westminster*, or elsewhere, in the said County of *Middlesex*.

[No. XXVII.] 32 George III. c. 48.—An Act to impower the Justices of the Peace for the County of *Middlesex* to continue a Session of the Peace, and of Oyer and Terminer, begun to be holden before the Essoign Day of Term, and Sitting of the King's Bench at *Westminster*, notwithstanding the happening of such Essoign Day, or the Sitting of the said Court of King's Bench at *Westminster*, or elsewhere, in the said County of *Middlesex*.

[No. XXVIII.] 38 George III. c. 52.—An Act to regulate the Trial of Causes, Indictments, and other Proceedings, which arise within the Counties of certain Cities and Towns Corporate within this Kingdom.

[Inserted Pt. IV. Cl. IV. No. 66.]

[No. XXIX.] 51 George III. c. 100.—An Act to amend an Act passed in the thirty-eighth Year of his present Majesty's Reign, intituled, *An Act to regulate the Trial of Causes, Indictments, and other Proceedings, which arise within the Counties of certain Cities and Towns Corporate within this Kingdom* —[26th *June* 1811.]

No. XXIX. 51 Geo. III. c. 100.

'WHEREAS by an Act of Parliament made and passed in the thirty-eighth year of the reign of his present Majesty, intituled, *An Act to regulate the Trial of Causes, Indictments and other Proceedings which arise within the Counties of certain Cities and Towns Corporate within this Kingdom*, it is, amongst other things, enacted, that it should and might be lawful for any prosecutor or prosecutors to prefer his, her or their bill or bills of indictment, for any offence or offences committed or charged to be committed within the county of any city or town corporate, to the jury of the county next adjoining to the county of such city or town corporate, sworn and charged to enquire for the King for the body of such adjoining county, at any sessions of *Oyer* and *Terminer* or general gaol-delivery; and that every such bill of indictment found to be a true bill by such jury should be valid and effectual in law, as if the same had been found to be a true bill by any jury sworn and charged to enquire for the King, for the body of the county of such city or town corporate: And whereas it was further provided by the said recited Act, that if it should appear, in the manner therein mentioned, to any court of *Oyer* and *Terminer* or general gaol-delivery for the county of any city or town corporate, that any indictment found by any grand jury of the county of such city or town corporate, or any inquisition taken before the coroner or coroners of the county of such city or town corporate, or other franchise, was fit and proper to be tried by a jury of any next adjoining county, that the same proceedings and trial should be had, and the same judgment should be given as would and might be had and given in cases of indictments or inquisitions for the like offences committed within such next adjoining counties; but no power was given in cases of conviction, in pursuance of any of the provisions in the said recited Act, of ordering the execution of the sentence in the county of the city or town corporate within which the offence had been committed, and was charged to have been committed: And whereas it may be fit and expedient, that in such cases the punishment should be inflicted, and the sentences put in execution, in the respective counties of the cities or towns corporate where such offences had been so committed:' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the passing of this Act, it shall and may be lawful for the court before which any conviction shall have taken place in pursuauce of the provisions of the said recited Act, to order every such convict to be punished according to law, either within the county where such conviction shall have taken place, or within the county of the city or town corporate wherein such offence shall have been committed; and in cases where the court shall order such convict to be punished within the county of such city or town corporate, it shall and may be lawful for the court, after passing sentence upon every such convict or convicts, to order him, her or them to be delivered into the custody of the sheriff or sheriffs, gaoler or other proper officer or officers of the county of such city or town corporate, and the sheriff or sheriffs, gaoler or other proper officer or officers of the county of such city or town corporate, is and are hereby commanded to receive into his or their custody every such convict or convicts, and to execute the sentence so passed upon him, her and them in such adjoining county, as if he, she or they had been tried and had received such sentence in the county of such city or town corporate.

38 G. 3. c. 52. § 2.

In what cases sentence may be executed in the county of the city or town corporate.

II. 'And whereas it is provided by the said in part recited Act, that in all

§ 3.

No. XXIX. 51 Geo. III. c. 100.

'cases of indictments and other proceedings which may be tried before his 'Majesty's justices of oyer and terminer or general gaol delivery, for any 'county in pursuance of the provisions contained in the said Act, it should 'and might be lawful for such justices to order the expences of the prose-'cution, and of the witnesses, and of the several rewards payable in pur-'suance of the statutes in such cases made and provided on the conviction 'of offenders, to be paid by and to the same persons and in the same manner 'as the same would have been payable if such indictment had been tried in 'the court of oyer and terminer or general gaol delivery of the county of 'such city or town corporate: And whereas it is just and expedient that a 'similar provision should be made for the payment of all other expences 'which may be incurred by any such adjoining county in relation to any 'person who may be tried or removed for trial to such adjoining county, 'for any offence committed or charged to have been committed in the 'county of any such city or town corporate:' Be it therefore enacted, That it shall and may be lawful for the justices of oyer and terminer, or general gaol-delivery, at any session thereof holden for such county, and they are hereby required to order all expences whatsoever incurred by such county in relation to any person who shall be tried in such county or removed thither for trial, for any offence committed or charged to have been committed within the county of any such city or town corporate, as well in maintaining and supporting such person and carrying the sentence into execution as in any other respect, to be repaid to the treasurer of such county or other person acting as treasurer of such county, or who shall have actually paid such expences, by the same person or persons, and in the same manner as the same would have been payable if such offender or supposed offender had remained in the county of such city or town corporate, and had been tried in the court of oyer and terminer or general gaol-delivery of the county of such city or town corporate, and as if the sentence with respect to such offender had been carried into execution within the county of such city or town corporate.

Proviso for payment of expences not before provided for by the county of a city or town corporate.

[No. XXX.] 53 George III. c. 99.—An Act for the more speedy and effectual Trial and Punishment of Offences committed by Soldiers, detached in Places beyond the Seas, out of his Majesty's Dominions.*—[7th *July* 1813.]

* At length in Vol. V.

(F.) § 2. OFFENCES COMMITTED OUT OF THE KINGDOM.

[See Class XIII. supra.]

[No. XXXI.] 33 Henry VIII. c. 23.—An Act to proceed by Commission of Oyer and Terminer against such Persons as shall confess Treason, &c. without remanding the same to be tried in the Shire where the Offence was committed.*

* Inserted ante, Class II. No. 16.—In a note to that number it is stated, by mistake, that the Act is repealed by 1 and 2 P. and M. c. 10; which is only true as to treasons committed within the realm.—For the cases decided under the Act, see Rex v. Depardo, 1 Taunt. 26. In a subsequent case, Easter Term, 55 Geo. III. it was held by all the judges, that a British subject might be tried by virtue of the Act for a murder committed in Portugal.

[No. XXXII.] 35 Henry VIII. c. 2.—An Act for the Trial of Treasons committed out of the King's Dominions.

[See Cl. XII. No. 17.]

[No. XXXIII.] 11 and 12 William III. c. 12.—An Act to punish Governors of Plantations in this Kingdom, for Crimes by them committed in the Plantations.*

No XXXIII. 11 and 12 William III. c. 12.

'WHEREAS a due punishment is not provided for several crimes and offences committed out of this his Majesty's realm of *England*, 'whereof divers governors, lieutenant governors, deputy governors, or 'commanders in chief of plantations and colonies within his Majesty's 'dominions beyond the seas, have taken advantage, and have not been 'deterred from oppressing his Majesty's subjects within their respective 'governments and commands, nor from committing several other great 'crimes and offences not deeming themselves punishable for the same here, 'nor accountable for such their crimes and offences to any person within 'their respective governments and commands:' For remedy whereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, and by the authority of the same, That if any governor, lieutenant governor, deputy governor, or commander in chief of any plantation or colony within his Majesty's dominions beyond the seas, shall after the first day of *August* one thousand seven hundred, be guilty of oppressing any of his Majesty's subjects beyond the seas, within their respective governments or commands, or shall be guilty of any other crime or offence, contrary to the laws of this realm, or in force within their respective governments or commands, such oppressions, crimes, and offences, shall be enquired of, heard and determined in his Majesty's Court of King's Bench here in *England*, or before such commissioners, and in such county of this realm, as shall be assigned by his Majesty's commission, and by good and lawful men of the same county, and that such punishments shall be inflicted on such offenders, as are usually inflicted for offences of like nature committed here in *England*.

Oppression of governors, &c. of any colony, &c. beyond sea,

may be tried in England.

* It was lately stated in Parliament that this Act was repealed; but I have not been able to discover that that is the case.

[No. XXXIV.] 13 George III. c. 63.—An Act for establishing certain Regulations for the better Management of the Affairs of the *East India* Company, as well in *India* as in *Europe*.*

No. XXXIV. 13 Geo. III. c. 63.

XXXIX. AND be it further enacted by the authority aforesaid, That if any governor-general, president, or governor, or council of any of the said company's principal or other settlements in *India*, or the chief justice, or any of the judges of the said supreme court of judicature to be by the said new charter established, or of any other court in any of the said united company's settlements, or any other person or persons who now are, or heretofore have been employed by or in the service of the said united company, in any civil or military station, office, or capacity, or who have or claim, or heretofore have had or claimed, any power or authority, or jurisdiction, by or from the said united company, or any of his Majesty's subjects residing in *India*, shall commit any offence against this Act, or shall have been, or shall be, guilty of any crime, misdemeanor, or offence, committed against any of his Majesty's subjects, or any of the inhabitants of *India*, within their respective jurisdictions, all such crimes, offences, and misdemeanors, may be respectively enquired of, heard, tried, and determined in his Majesty's Court of King's Bench, and all such persons so offending, and not having been before tried for the same offence in *India*, shall, on conviction, in any such case as is not otherwise specially provided for by this Act, be liable to such fine or corporeal punishment as the said court shall think fit; and moreover shall be liable, at the discretion of the said court, to be adjudged to be incapable of serving the said united com-

If the governor-general, president, &c. commit offences, the same may be tried and determined in the Court of King's Bench.

* See Sec. 42. respecting the Examination of Witnesses, Pt. IV. Cl. X. No. 6.

No. XXXIV. 13 Geo. III. c. 63.

pany in any office, civil or military; and all and every such crimes, offences, and misdemeanors, as aforesaid, may be alledged to be committed, and may be laid, enquired of, and tried in the county of *Middlesex*.

[No. XXXV.] 24 George III. sess. 2. c. 25.—An Act for the better Regulation and Management of the Affairs of the *East India* Company, and of the *British* Possessions in *India*; **and for establishing a Court of Judicature for the more speedy and effectual Trial of Persons accused of Offences committed in the East Indies.**

No. XXXV. 24 Geo. III. sess. 2. c. 25.

LXIV. 'AND whereas it would conduce to the better government, management, and ordering of the territories, possessions, revenues, and commerce of the said united company, if some more effectual course than the common law hath provided were devised, for the prosecuting and bringing to speedy and condign punishment persons guilty of the crime of extortion, and other misdemeanors, committed in the *East Indies* by *British* subjects holding offices or employments there under his Majesty, his heirs or successors, or under the said united company;' Be it therefore enacted by the authority aforesaid, That it shall and may be lawful to and for the coroner and attorney of our Lord the King, in the Court of King's Bench, by rule of the Court of King's Bench, to be obtained upon motion to be made for that purpose, at the instance of any person or persons (and which rule the said court is hereby impowered to grant at their discretion, if the magnitude and circumstances of the case shall appear to the said court to render it proper), or for his Majesty's attorney general, or for the court of directors or court of proprietors of the said united company, in the name of the said united company, to exhibit in the said Court of King's Bench, an information against any such person, for any such offence as aforesaid, committed after the first day of *March*, one thousand seven hundred and eighty-five; whereupon the said court shall and may, at the instance of the prosecutor, cause the party against whom such information shall have been exhibited as aforesaid to be attached, and may and shall order him to stand committed to the prison of the *Marshalsea*, or to the Tower of *London*, or to the gaol of *Newgate*, at the discretion of the said court, there to be detained until he shall be delivered by due course of law, or until he, together with two sufficient sureties, shall have entered into a recognizance unto the King's Majesty, his heirs and successors, in such sum of money, and with such condition for his appearance, and for satisfying the judgment to be pronounced in and upon such information, as to the said court in its discretion shall seem meet; and when the defendant shall have appeared and pleaded to the said information, the chief justice, or some of the justices of the said Court of King's Bench, shall, within ten days (unless any *mandamus* shall be granted for the examination of witnesses, as hereinafter provided, upon a motion to be made within a time to be limited by the said Court of King's Bench for that purpose), deliver the record of the said information and plea to the lord high chancellor of *Great Britain*, or lord keeper, or lords commissioners for the custody of the Great Seal of *Great Britain*, who shall thereupon issue a commission under the said Great Seal in manner hereinafter provided.

Procedure against British subjects who shall be guilty of misdemeanors in the East Indies.

[No. XXXVI.] 42 George III. c. 85.—An Act for the trying and punishing in *Great Britain* Persons holding public Employments, for Offences committed abroad; and for extending the Provisions of an Act, passed in the twenty-first Year of the Reign of King *James*, made for the Ease of Justices and others in pleading in Suits brought against them, to all Persons, either in or out of this

Kingdom, authorized to commit to safe Custody.—[22*d* *June* 1802.]

[See Pt. IV. Cl. XX. No. 6.]

[No. XXXVII.] 46 George III. c. 54.—An Act for the more speedy Trial of Offences committed in distant Parts upon the Sea.—[23*d* *May* 1806.]

[See Cl. XIII. No. 8.]

[No. XXXVIII.] 57 George III. c. 53.—An Act for the more effectual Punishment of Murders and Manslaughters committed in Places not within his Majesty's Dominions.—[27th *June* 1817.]

No. XXXVIII. 57 Geo. III. c. 53.

Murders and manslaughters committed in certain foreign parts, may be tried in any of his Majesty's foreign plantations, in same manner as offences committed on the high seas.

ALL murders and manslaughters committed or that shall be committed on land at the settlement in the bay of *Honduras* by any person or persons residing or being within the said settlement, and all murders and manslaughters committed or that shall be committed in the islands of *New Zealand* and *Otaheite*, or within any other islands, countries, or places not within his Majesty's dominions, nor subject to any *European* state or power, nor within the territory of the united states of *America*, by the master or crew of any *British* ship or vessel, or any of them, or by any person sailing in or belonging thereto, or that shall have sailed in or belonged to and have quitted any *British* ship or vessel to live in any of the said islands, countries, or places, or either of them, or that shall be there living, shall and may be tried, adjudged, and punished in any of his Majesty's islands, plantations, colonies, dominions, forts or factories, under or by virtue of the King's commission or commissions, which shall have been or which shall hereafter be issued under and by virtue and in pursuance of the powers and authorities of an Act passed in the forty-sixth year of his present Majesty, intituled *An Act for the more speedy trial of Offences committed in distant Parts upon the Sea*, in the same manner as if such offence or offences had been committed on the high seas. 46 G. 3. c. 54.

[No. XXXIX.] 59 George III. c. 27.—An Act to facilitate the Trial of Felonies committed on board Vessels employed on Canals, Navigable Rivers, and Inland Navigations.—[19th *May* 1819.]

No. XXXIX. 59 Geo. III. c. 27.

Felonies on navigations may be prosecuted in any

WHEREAS felonies are frequently committed on board vessels employed in carrying and conveying goods, wares, and merchandize in or upon canals, navigable rivers, and inland navigations, in various parts of the united kingdom, as well by breaking open the casks and packages containing such goods, wares, and merchandize, as in various other ways: And whereas such felonies frequently remain undetected until the arrival of such vessels at the places of their destination; and in consequence of such canals and navigations passing through several counties forming the boundaries of counties on each side or bank, it can seldom be known within what county such felonies may have been actually committed, and offenders frequently escape unpunished from defect of proof that the felony with which they are charged was actually committed within the county in which such offenders may be indicted: For remedy thereof be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, in any indictment for any felony committed on board any barge, boat, trow, or other vessel whatever, employed or used in carrying or conveying goods, wares, and merchandize, or in which any such goods, wares, or merchan-

No. XXXIX. 59 Geo. III. c. 27.

dize shall be, in or upon any canal, navigable river or inland navigation, in any part of the united kingdom of *Great Britain* and *Ireland*, it shall be sufficient to alledge that such felony was committed within any county or city through any part whereof such boat, barge, trow, or other vessel shall have passed in the course of the voyage or journey during which such felony shall have been committed; and in cases wherein the sides or banks of any navigable river, canal, or inland navigation, or the centre thereof, shall constitute the boundary of any two counties or cities, it shall be sufficient to alledge that such felony was committed in either of the said counties or cities through which or any part thereof such boat, barge, trow, or other vessel shall have passed in the course of the voyage or journey during which such felony shall have been committed; and every such felony shall and may be inquired of, tried, and determined in the county or city within which the same felony shall be so alledged to have been committed; and all and every person and persons who shall be convicted of any such felony so to be inquired of, tried, and determined as aforesaid, shall be subject and liable to all such pains of death, and other pains, penalties and forfeitures, as such person or persons convicted of such felony would have been subject and liable to in case such felony had been inquired of, tried, and determined in the county in which the same felony was actually committed; any law, statute, or usage to the contrary in anywise notwithstanding: Provided always, that nothing herein contained shall extend, or be construed to extend, to affect the jurisdiction of the High Court of Admiralty, or of any commission for the trial of offences under an Act passed in the twenty-eighth year of the reign of King *Henry* the Eighth, intituled, *For Pirates*.

county through which the navigation passes.

Persons so tried and convicted to be subject to like pains and penalties as if tried in the county where fact committed.

28 H. 8. c. 15.

[No. XL.] 59 George III. c. 44.—An Act to amend an Act passed in the fifty-seventh Year of his present Majesty, for the more effectual Punishment of Murders, Manslaughters, Rapes, Robberies, and Burglaries committed in Places not within his Majesty's Dominions, as relates to the Trial of Murders, Manslaughters, Rapes, Robberies, and Burglaries committed in *Honduras*. — [21st *June* 1819.]

No. XL. 59 Geo. III. c. 44.

WHEREAS by an Act passed in the fifty-seventh year of his present Majesty, intituled *An Act for the more effectual punishment of Murders and Manslaughters committed in places not within His Majesty's Dominions*, it was among other things provided and enacted, that from and after the passing of that Act, all murders and manslaughters committed, or that shall be committed on land at the settlement in the Bay of *Honduras*, by any person or persons residing or being within the said settlement, shall and may be tried, adjudged, and punished in any of his Majesty's islands, plantations, colonies, dominions, forts, or factories, under or by virtue of the King's commission or commissions which shall have been, or shall hereafter be, issued under and by virtue of an Act passed in the forty-sixth year of his present Majesty, intituled *An Act for the more speedy Trial of Offences committed in distant Parts upon the Sea:* And whereas doubts have arisen whether in the said settlements in the Bay of *Honduras*, there be a fort or factory to which a commission may issue for the trial of offences under the said last-mentioned Act: And whereas by reason of such doubts, and the great delay and difficulty of removing offenders in *Honduras* for trial to *England*, or to any of his Majesty's islands, plantations, colonies, dominions, forts, or factories, such crimes do oftentimes escape unpunished; for remedy thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, all murders, manslaughters, rapes, robberies, and burglaries committed, or that shall be committed on land, at the said settlement in the Bay of *Honduras*, may be enquired of,

57 G. 3. c. 53.

46 G. 3. c. 54.

Certain offences committed on land in the Bay of

No. XL. 59 Geo. III. c. 44.

tried, heard, determined, and adjudged, within the said settlement in the Bay of *Honduras*, under or by virtue of the King's commission or commissions, under the Great Seal of *Great Britain*, to be directed to any such four or more discreet persons, as the Lord Chancellor of *Great Britain*, Lord Keeper, or commissioners for the custody of the Great Seal of *Great Britain*, for the time being, shall from time to time think fit to appoint, in the same manner as is provided and enacted with respect to any crimes directed to be enquired of, heard, determined, or adjudged, under and by virtue of any commission issued under and by virtue of the aforesaid Act of the forty-sixth year of his present Majesty, in any of his Majesty's islands, plantations, colonies, dominions, forts, or factories.

Honduras, to be tried under a commission under the Great Seal.

II. And be it further enacted, That the commissioners so to be appointed, or any three of them, shall have such and the like powers and authorities for the trial of all such murders, manslaughters, rapes, robberies, and burglaries, committed within such settlement in the Bay of *Honduras*, as any commissioners appointed or to be appointed under the said Act of the forty-sixth year of his present Majesty have, or would have, for the trial of any offences committed upon the seas; and all persons convicted of either of the said offences so to be tried by virtue of any commission to be issued according to the directions of this Act shall be subject and liable to, and shall suffer all such and the same pains, penalties, or forfeitures, as by any law or laws now in force persons convicted of the same respectively would be subject and liable to in case the same were respectively enquired of, tried, heard, determined, and adjudged, within any of his Majesty's islands, plantations, colonies, or dominions, by virtue of any commission made according to the directions of the aforesaid Acts of the forty-sixth and fifty-seventh years of his present Majesty, or either of them; any statute, law, or usage, to the contrary notwithstanding.

Powers of the commissioners appointed under such commission.

III. Provided always, That nothing herein contained shall repeal or affect the provisions of an Act passed in the thirty-third year of the reign of King *Henry* the Eighth, intituled *An Act to proceed by commission of Oyer and Terminer against such Persons as shall confess Treason*, et cetera, *without remanding the same to be tried in the Shire where the Offence was committed.*

Provisions of 33 H. 8. c. 23. not affected.

IV. And be it further enacted, That this Act may be altered, amended, or repealed by any Act or Acts to be passed in this present Session of Parliament.

Act may be altered this Session.

[No. XLI.] 59 George III. c. 45.—An Act to explain and amend certain Acts relative to the Court of Session in Scotland.

[No. XLII.] 59 George III. c. 46.—An Act to abolish Appeals of Murder, Treason, Felony, or other Offences, and Wager of Battel, or joining Issue and Trial by Battel in Writs of Right.—[22d *June* 1819.]

[No. XLIII.] 59 George III. c. 96.—An Act to facilitate the Trials of Felonies committed on Stage Coaches and Stage Waggons, and other such Carriages; and of Felonies committed on the Boundaries of Counties.—[12th *July* 1819.]

No. XLIII. 59 Geo. III. c. 96.

WHEREAS felonies are frequently committed on stage coaches, stage waggons, stage carts, and other such carriages, employed in carrying and conveying goods, wares, and merchandize, travelling on the several highways in various parts of the united kingdom, as well by breaking open the casks and packages containing such goods, wares, and merchandize, as in various other ways: And whereas such felonies frequently remain undetected until the arrival of such carriages at the place of their destination,

No. XLIII. 59 Geo. III. c. 96.

and in consequence of such highways leading through several counties, it can seldom be known within what county such felonies may have been actually committed, and offenders frequently escape unpunished from defect of proof that the felony with which they are charged was actually committed within the county in which such offenders may be indicted; for remedy thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, in any indictment for any felony committed on any stage coach, stage waggon, stage cart, or other such carriage whatever, employed or used in carrying or conveying goods, wares, and merchandize, or in which any such goods, wares, or merchandize shall be, in or upon any highway in any part of the united kingdom of *Great Britain* and *Ireland*, it shall be sufficient to allege that such felony was committed within any county or city through any part whereof such stage coach, stage waggon, stage cart, or other such carriage shall have passed in the course of the journey during which such felony shall have been committed; and in all cases where any highway shall form the boundary of any two counties, it shall be sufficient to allege, that such felony committed as aforesaid was committed in either of the said counties through which or any part whereof such stage coach, stage waggon, stage cart, or other such carriage shall have passed in the course of the journey during which such felony shall have been committed; and every such felony shall and may be inquired of, tried, and determined in the county or city within which the same felony shall be so alleged to have been committed; and all and every person and persons who shall be convicted of any such felony so to be inquired of, tried, and determined as aforesaid, shall be subject and liable to all such pains of death, and other pains, penalties, and forfeitures, as such person or persons convicted of such felony would have been subject and liable to, in case such felony had been inquired of, tried, and determined in the county in which the same felony was actually committed; any law, statute, or usage to the contrary in anywise notwithstanding.

Indictments for felonies committed on Stage Coaches, &c. how to be laid.

II. And whereas felonies are sometimes committed on or so close to the boundaries of two or more counties, that the offenders escape unpunished from the defect of proof, that the felony with which they are charged was actually committed within the county in which such offenders may be indicted; Be it therefore enacted, That from and after the passing of this Act, in any indictment for any felony committed on the boundary or boundaries of two or more counties, or within the distance of five hundred yards of any such boundary or boundaries, it shall be sufficient to allege that such felony was committed in either or any of the said counties; and every such felony shall and may be inquired of, tried, and determined in the county within which the same felony shall be so alleged to have been committed; and all and every person and persons who shall be convicted of any such felony so to be inquired of, tried, and determined as aforesaid, shall be subject and liable to all such pains of death, and other pains, penalties, and forfeitures, as such person or persons so convicted of such felony would have been subject and liable to, in case such felony had been inquired of, tried, and determined in the county in which the same felony was actually committed; any law, statute, or usage to the contrary in anywise notwithstanding.

How indictments shall be laid for felonies committed on the boundaries of counties.

[No. XLIV.] 59 George III. c. 97.—An Act to extend the Provisions of an Act made in the forty-sixth Year of his Majesty's Reign, intituled *An Act for the more speedy Trial of Offences committed in distant Parts upon the Seas*, to the Trial of Offences committed in *Africa* against the Laws for abolishing the Slave Trade.—[12th *July* 1819.]

No. XLIV. 59 Geo. III. c. 97.

WHEREAS by an Act made in the forty-sixth year of his Majesty's reign, intituled *An Act for the more speedy Trial of Offences committed in distant Parts upon the Seas*, it is enacted, that all treasons, piracies,

46 G. 3. c. 54.

felonies, robberies, murders, conspiracies, and other offences of what nature or kind soever, committed upon the sea or in any haven, river, creek, or place where the admirals or admiral have power, authority or jurisdiction, may be inquired of, heard, determined, and adjudged according to the common course of the laws of this realm used for offences committed upon the land within this realm, and not otherwise, in any of his Majesty's islands, plantations, colonies, dominions, forts or factories, under and by virtue of the King's commission or commissioners under the Great Seal of *Great Britain*, to be directed to any such four or more discreet persons as the Lord Chancellor of *Great Britain*, Lord Keeper, or commissioners for the custody of the Great Seal of *Great Britain* for the time being, shall from time to time think fit to appoint; and that the said commissioners or any three of them shall have such and the like powers and authorities for the trial of all such murders, treasons, piracies, felonies, conspiracies, and other offences, within any such islands, plantations, colonies, dominions, forts, or factories, as any commissioners appointed or to be appointed according to the directions of the statute of the twenty-eighth year of the reign of King *Henry* the Eighth, by any law or laws now in force, have or would have for the trial of the said offences within this realm: And whereas by an Act made in the fifty-first year of his Majesty's reign, intituled *An Act for rendering more effectual an Act made in the forty-seventh Year of his Majesty's Reign, intituled 'An Act for the Abolition of the Slave Trade,'* the carrying away or removing from any part of *Africa* of any person or persons whatsoever as a slave or slaves, and the wilfully shipping, embarking, receiving, detaining, or confining on board any ship, vessel, or boat, any person or persons for the purpose of his or their being so carried away or removed, and divers other offences against that Act and other Acts for abolishing the slave trade, are declared respectively to be felonies and misdemeanors, and the offenders, their aiders and abettors, are respectively made liable to such pains, penalties, and forfeitures, as are therein mentioned and provided; but the provisions thereby made for the trial of such felonies and misdemeanors, when committed by *British* subjects in *Africa*, have been found to be inconvenient and ineffectual: And whereas by an Act made in the fifty-eighth year of his Majesty's reign, intituled *An Act to explain and amend an Act passed in the fifty-first Year of his Majesty's Reign, for rendering more effectual an Act made in the forty-seventh Year of his Majesty's Reign, for the Abolition of the Slave Trade*, it is enacted, that all offences declared by the said Act of the fifty-first year of his Majesty's reign to be felonies or misdemeanors, committed or which shall be committed on the high seas, or in any port, sea creek, or place where the Admiral has jurisdiction, may be inquired of, tried, and determined under and by virtue of any commission already issued, or hereafter to be issued, according to the directions of the said recited Act of the forty-sixth year of his Majesty's reign: And whereas offences which by the said recited Act of the fifty-first year of his Majesty's reign, are declared to be felonies or misdemeanors, have been or may be committed by *British* subjects in *Africa*, either on shore or in rivers, or other places where the admiral has no jurisdiction, and it may be impossible in such cases to bring the offenders to justice under any of the said recited Acts, or any other laws now in being, without great inconvenience, expence, and delay; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That each and every offence declared by the said Act of the fifty-first year of his Majesty's reign to be a felony or misdemeanor, committed or which shall be committed by any subject or subjects of his Majesty, his heirs or successors, in *Africa*, or in any of the rivers, ports, or harbours thereof, not being a place where the admiral has jurisdiction, and not being within the local jurisdiction of any ordinary Court of a *British* colony or settlement in *Africa* competent to try such offence, may be inquired of, tried, and determined under and by virtue of any commission already issued, or hereafter to be issued, according to the directions of the said recited Act of the forty-sixth year of his Majesty's reign.

51 G. 3. c. 23.

58 G. 3. c. 98.

Offences declared by the recited Act 51 G. 3. c. 23. felonies or misdemeanors, committed by any of his Majesty's subjects in Africa, not being within the jurisdiction of an Admiral, &c. may be tried by commission, agreeably to 46 G. 3. c. 54.

[No. XLV.] 60 George III. and 1 George IV. c. 4.—An Act to prevent Delay in the Administration of Justice in Cases of Misdemeanor.—[3*d December* 1819.]

No. XLV. 60 Geo. III. & 1 Geo. IV. c. 4.

WHEREAS great delays have occurred in the administration of justice, in cases of persons prosecuted for misdemeanors by indictment or information in his Majesty's Court of King's Bench at *Westminster* and *Dublin*, and by indictment at the sessions of the peace, sessions of oyer and terminer, great sessions, and sessions of gaol delivery, in that part of *Great Britain* called *England*, and in *Ireland* respectively, by reason that the defendants in some of the said cases have, according to the present practice of such respective courts, an opportunity of postponing their trials to a distant period, by means of imparlances in the said several Courts of King's Bench, and by time being given to try in such respective Courts of Session; for remedy thereof be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, where any person shall be prosecuted in his Majesty's Court of King's Bench at *Westminster*, or in his Majesty's Court of King's Bench in *Dublin* respectively, for any misdemeanor, either by information or by indictment there found or removed into the same respective courts, and shall appear in term time in either of the said courts respectively in person, to answer to such indictment or information, such defendant upon being charged therewith shall not be permitted to imparle to a following term, but shall be required to plead or demur thereto within four days from the time of his or her appearance; and in default of his or her pleading or demurring within four days as aforesaid, judgment may be entered against the defendant for want of a plea; and in case such defendant shall appear to such indictment or information by his or her clerk or attorney in court, it shall not be lawful for such defendant to imparle to a following term, but a rule requiring such defendant to plead may forthwith be given, and a plea or demurrer to such indictment or information enforced, or judgment by default entered thereupon, in the same manner as might have been done, before the passing of this Act, in cases where the defendant had appeared to such indictment or information by his or her clerk in court or attorney in a previous term.

Persons prosecuted in the Court of King's Bench for misdemeanors, appearing in court, not permitted to imparle.

Judgment may be entered for want of plea.

II. Provided always, and be it further enacted, That it shall be lawful for the said respective courts, or for any judge of the same respectively, upon sufficient cause shewn for that purpose, to allow further time for such defendant to plead or demur to such indictment or information.

Court may allow further time to plead.

III. And be it further enacted, That from and after the passing of this Act, where any person shall be prosecuted for any misdemeanor by indictment at any session of the peace, session of oyer and terminer, great session, or session of gaol delivery within that part of *Great Britain* called *England*, or in *Ireland*, having been committed to custody or held to bail to appear to answer for such offence twenty days at the least before the session at which such indictment shall be found, he or she shall plead to such indictment, and trial shall proceed thereupon at such same session of the peace, session of oyer and terminer, great session, or session of gaol delivery respectively, unless a writ of *certiorari* for removing such indictment into his Majesty's Courts of King's Bench at *Westminster* or in *Dublin* respectively, shall be delivered at such session before the jury shall be sworn for such trial.

Persons in custody for misdemeanors, or held to bail, within 20 days before the sessions, shall plead to indictment, unless a writ of certiorari be delivered.

VI. And it is hereby declared and enacted, That such writ of *certiorari* may be applied for and issued before such indictment has been found, in the like cases, in the same manner, and upon the same terms and conditions, as if such writ of *certiorari* had been applied for after such indictment had been found.

Certiorari may be issued before or after indictment is found.

V. And be it further enacted, That from and after the passing of this Act, where any person shall be prosecuted for any misdemeanor by indictment at any session of the peace, session of oyer and terminer, great session, or session of gaol delivery within that part of *Great Britain* called

In what cases such indictments may be tried at subsequent sessions.

England, or in *Ireland*, not having been committed to custody or held to bail to appear to answer for such offence twenty days before the session at which such indictment shall be found, but who shall have been committed to custody or held to bail to appear to answer for such offence at some subsequent session, or shall have received notice of such indictment having been found twenty days before such subsequent session, he or she shall plead to such indictment at such subsequent session, and trial shall proceed thereupon at such same session of the peace, session of oyer and terminer, great session, or session of gaol delivery respectively, unless a writ of *certiorari* for removing such indictment into his Majesty's Courts of King's Bench at *Westminster* or in *Dublin* respectively shall be delivered at such last-mentioned session before the jury shall be sworn for such trial; any law or usage to the contrary notwithstanding.

Not to prevent indictments found by a grand jury of any city or town from being removed to an adjoining county to be tried. 38 G. 3. c. 52.

VI. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to prevent any indictment, found by a grand jury of any city or town corporate, from being removed, at the prayer of any defendant, for trial by a jury of the county next adjoining to the county of such city or town corporate, pursuant to the provisions of an Act passed in the thirty-eighth year of his present Majesty's reign, intituled, *An Act to regulate the Trial of Causes, Indictments, and other Proceedings, which arise within the Counties of certain Cities and Towns Corporate within this Kingdom;* and upon such removal, the defendant shall plead, and the trial shall be had according to the provisions of this Act, in like manner as if such indictment had been originally found by a grand jury of such next adjoining county.

Court may on sufficient cause shewn, allow further time for pleading, &c.

VII. Provided also and be it enacted, That it shall be lawful for the court at any session of the peace, session of oyer and terminer, great session, or session of gaol delivery respectively, upon sufficient cause shewn for that purpose, to allow further time for pleading to any such indictment, or for trial of the same.

In prosecutions by the attorney or solicitor general, copy of the information or indictment to be delivered to the party.

VIII. And be it further enacted by the authority aforesaid, That in all cases of prosecutions for misdemeanors, instituted by his Majesty's attorney or solicitor general, in any of the courts aforesaid, the court shall, if required, make order that a copy of the information or indictment shall be delivered, after appearance, to the party prosecuted, or his clerk in court or attorney, upon application made for the same, free from all expence to the party so applying; provided that such party, or his clerk in court or attorney, shall not have previously received a copy thereof.

In case such prosecution is not brought to trial within twelve calendar months, court may make an order thereon.

IX. Provided also and be it further enacted, That in case any prosecution for a misdemeanor instituted by his Majesty's attorney or solicitor general in any of the courts aforesaid, shall not be brought to trial within twelve calendar months next after the plea of not guilty shall have been pleaded therein, it shall be lawful for the court in which such prosecution shall be depending, upon application to be made on the behalf of any defendant in such prosecution, of which application twenty days previous notice shall have been given to his Majesty's attorney or solicitor general, to make an order, if the said court shall see just cause so to do, authorizing such defendant to bring on the trial in such prosecution; and it shall thereupon be lawful for such defendant to bring on such trial accordingly, unless a *nolle prosequi* shall have been entered in such prosecution.

Not to extend to quo warranto actions, &c.

X. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to any prosecution by information in nature of a *quo warranto*, or for the non-repair of any bridge or highway.

[No. XLVI.] 1 George IV. c. 90:—An Act to remove Doubts, and to remedy Defects, in the Law, with respect to certain Offences committed upon the Sea, or within the Jurisdiction of the Admiralty.—[24*th July* 1820.]

WHEREAS by an Act passed in the twenty-eighth year of the reign of King *Henry* the Eighth, intituled, *For Pirates*, it is enacted, That all 28 H. 8. c. 15.

No. XLVI. 1 Geo. IV. c. 90.

treasons, felonies, robberies, murthers, and confederacies committed in or upon the sea, or in any other haven, river, creek, or place where the admiral or admirals have or pretend to have power, authority, or jurisdiction, shall be enquired, tried, heard, determined, and adjudged, in such shires and places in the realm as shall be limited by the King's commission or commissions to be directed for the same, in like form and condition as if any such offence or offences had been committed or done in or upon the land: And whereas by an Act passed in the thirty-ninth year of the reign of his late Majesty King *George* the Third, intituled, *An Act for remedying certain Defects in the Law respecting Offences committed upon the High Seas*, after reciting the said Act of the twenty-eighth year of the reign of King *Henry* the Eighth, and also reciting that it was expedient to declare that other offences committed on the seas might be enquired of, tried, and determined in like manner, it was enacted, that all and every offence and offences which, after the passing of the said Act of the thirty-ninth year of the reign aforesaid, should be committed upon the high seas, out of the body of any county of this realm, should be, and they were thereby declared to be offences of the same nature respectively, and to be liable to the same punishments respectively, as if they had been committed upon the shore, and should be enquired of, heard, tried, and determined and adjudged, in the same manner as treasons, felonies, murthers, and confederacies are directed to be by the said Act of the twenty-eighth year of the reign of King *Henry* the Eighth; and it was by the said Act of the thirty-ninth year of the reign of his said late Majesty further enacted, That when any person or persons should be tried for the crime of murther or manslaughter committed upon the sea, by virtue of any commission directed under the said Act of the twenty-eighth year of the reign of King *Henry* the Eighth, and should be found guilty of manslaughter only, such person or persons should be entitled to receive the benefit of clergy in like manner, and should be subject to the same punishment, as if he or they had committed such manslaughter in or upon the land: And whereas another Act passed in the forty-third year of the reign of his said late Majesty King *George* the Third, intituled, *An Act for the further Prevention of malicious shooting, and attempting to discharge loaded Fire Arms, stabbing, cutting, wounding, poisoning, and the malicious using of Means to procure the Miscarriage of Women, and also the malicious setting Fire to Buildings; and also for repealing a certain Act made in* England, *in the Twenty-first Year of the Reign of the late King* James *the First, intituled* '*An Act to prevent the destroying* '*and murthering of Bastard Children;*' *and also an Act made in* Ireland *in the Sixth Year of the Reign of the late Queen* Anne, *also intituled,* '*An Act* '*to prevent the destroying and murthering of Bastard Children;*' *and for making other Provisions in lieu thereof:* And whereas doubts have arisen whether persons tried by virtue of any commission directed under the said Act of the twenty-eighth year of the reign of King *Henry* the eighth, for any other crime or offence than those of murder or manslaughter, and found guilty of manslaughter, are entitled to receive the benefit of clergy, although if such other crimes or offences had been committed in or upon the land, the person or persons committing the same would have been entitled to receive the benefit of clergy in respect of some of such crimes and offences; and doubts have also arisen whether the offences mentioned in the said Act of the forty-third year of the reign of his said late Majesty King *George* the Third, can, if the same be committed upon the seas out of the body of any county of this realm, be tried and punished by virtue of any commission directed under the said Act of the twenty-eighth year of the reign of King *Henry* the Eighth, in the same manner as if the said offences had been committed upon the land, by reason that the said Act of the forty-third year of the reign of his late Majesty extends only to the offences therein mentioned, if the same be committed either in *England* or *Ireland;* and it is expedient that the said several doubts should be removed, and the provisions of the said Act of the thirty-ninth year of the reign of his said late Majesty extended, as hereinafter mentioned; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this pre-

39 G. 3. c. 37.

43 G. 3. c. 58.

No. XLVI. 1 Geo. IV. c. 90.

sent Parliament assembled, and by the authority of the same, That from and after the passing of this Act, when any person or persons shall be tried for any capital crime or offence committed upon the sea, out of the body of any county of this realm, and within the jurisdiction of the admiralty, by virtue of any commission directed under the said Act of the twenty-eighth year of the reign of King *Henry* the Eighth, and shall be found guilty of any crime or offence which, if committed in or upon the land, would be clergyable, such person or persons shall be entitled to receive the benefit of clergy in respect of such crime or offence, in like manner, and shall be subject to the same punishment for such clergyable crime or offence, as if he, she, or they had committed such clergyable crime or offence in or upon the land.

Persons tried for Murther or Manslaughter committed at Sea, shall receive the Benefit of Clergy as if committed on Land.

II. And be it further enacted, That all and every the crimes and offences mentioned in the said Act of the forty-third year of the reign of his said late Majesty, which, after the passing of this Act shall be committed upon the high seas, out of the body of any county of this realm, shall be and they are hereby declared to be offences of the same nature respectively, and to be liable to the same punishments respectively as if they had been committed upon the land in *England* or *Ireland*, and shall be enquired of, heard, tried, and determined and adjudged, in the same manner as treasons, felonies, murthers, and confederacies are directed to be by the said Act of the twenty-eighth year of the reign of King *Henry* the Eighth.

Offences under 43 G. 3. c. 58. to be subject to the provisions of this Act.

[No. XLVII.] 7 George IV. c. 38.—An Act to enable Commissioners for trying Offences upon the Sea, and Justices of the Peace, to take Examinations touching such Offences, and to commit to safe Custody Persons charged therewith.—[5th *May* 1826.]

No. XLVII. 7 Geo. IV. c. 38.

WHEREAS it is expedient that the commissioners named in the commission of oyer and terminer, for the trying of offences committed within the jurisdiction of the admiralty of *England;* and also the commissioners named in commissions made under an Act passed in the forty-sixth year of the reign of King *George* the Third, for the more speedy trial of offences in distant parts beyond the sea; and also the justices of the peace in the United Kingdom, should have the power, severally as well as jointly, of taking examinations upon oath, touching offences within the jurisdiction of the admiralty of *England*, and of committing to safe custody persons charged upon oath with such offences; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful to and for any one or more of the commissioners for the time being, named or to be named in the commission of oyer and terminer, for the trying of offences committed within the jurisdiction of the admiralty of *England;* and also to and for any one or more of the commissioners for the time being, named or to be named in any commission made or granted under or by virtue of the said Act of the forty-sixth year of King *George* the Third; and also to and for any one or more of his Majesty's justices of the peace for the time being for any county, riding, division, or place, in the United Kingdom, and they are hereby respectively authorized empowered and required, from time to time to take any information or informations of any witness or witnesses upon oath, which oath they and each of them are hereby respectively autho-

Commissioners for trying Offences at Sea, or Justices may take Examinations touching Offences committed within the Jurisdiction of the Admiralty, and commit the Persons charged.

No. XLVII. 7 Geo. IV. c. 38.

rized to administer, touching any treason, piracy, felony, robbery, murder, conspiracy, or other offence, of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the admiral or admirals hath or have power authority or jurisdiction; and thereupon (if such commissioner or commissioners, justice or justices of the peace, shall see cause), by any warrant or warrants under his or their hand and seal or hands and seals, to cause the person or persons charged in such information or informations to be apprehended and committed to safe custody, to remain in such custody until discharged in due course of law, or until bailed, in cases in which bail may by law be taken.

(G.)

BENEFIT OF CLERGY.—TRANSPORTATION.*—PENITENTIARY HOUSES.

* The earliest Act which imposed the punishment of transportation, is 39 Eliz. c. 4. *For the Punishment of Rogues, Vagabonds, and Sturdy Beggars;* by which it is provided, that rogues, &c., may, by the justices in sessions, be banished out of the realm, and conveyed, at the charges of the country, to such parts beyond seas as shall be assigned by the privy council, or otherwise adjudged perpetually to the gallies of this realm; and if any rogue so banished shall again return into the realm, he shall be guilty of felony; which felony shall be determined in the county in which the offender is apprehended.

The earliest subsisting statute of which I am aware, which notices the power of transportation, is 22 Chas. II. c. 5. ante, Cl. VII. No. 16.

[No. I.] 3 Edward I. c. 2.—A Clerk convict of Felony delivered to the Ordinary, shall not depart without Purgation.

[No. II.] Edward I. c. 5.—*Bigamus* shall not be allowed his Clergy.

[See note to the title of 1 Jac. I. c. 11. ante, Cl. V. No. 12.]

[No. III.] 9 Edward II. st. 1. c. 16.—The Privilege of the Church being demanded by the Ordinary, shall not be denied to a Clerk that hath confessed Felony.

[No. IV.] 18 Edward III. st. 3. c. 2.—Bigamy shall be tried by the Ordinary, and not by Inquest.

[See note to Cl. V. No. 12.]

[No. V.] 25 Edward III. st. 3. c. 4.—Clerks convicted of Felony or Treason shall be delivered to their Ordinaries.

[No. VI.] 25 Edward III. st. 3. c. 5.—A Clerk shall be arraigned of all his Offences at once.

[No. VII.] 4 Henry IV. c. 3.—A Confirmation of the Liberties of the Church and Clergy. A Clerk convict for Treason, or being a common Thief, shall not make his Purgation.

[No. VIII.] 4 Henry VII. c. 13.—Clergy shall be allowed but once. A convict Person shall be marked with the Letters M or T. A Provision for them which be within Orders.

No. VIII. 4 Hen. VII. c. 13.

'ITEM, Whereas upon trust of the privilege of the church, divers persons lettered have been the more bold to commit murder, rape, robbery, theft, and all other mischievous deeds, because they have been continually admitted to the benefit of the clergy as oft as they did offend in any of the premises; in avoiding such presumptuous boldness.' It is enacted, ordained and stablished by the authority of this present Parliament, That every person, not being within orders, which once hath been admitted to the benefit of his clergy, eftsoons arraigned of any such offence, be not admitted to have the benefit or privilege of his clergy: And that every person so convicted for murder, to be marked with an *M* upon the braun of the left thumb; and if he be for any other felony, the same person to be marked with a *T* in the same place of the thumb, and those marks to be made by the gaoler openly in the court before the judge, before that such person be delivered to the ordinary. Provided alway, if any person at the second time of asking his clergy, because he is within orders, hath not then and there ready his letters of his orders, or a certificate of his ordinary witnessing the same, that then the justices, afore whom he is so arraigned, shall give him a day by their discretion to bring in his said letters, or certificate; and if he fail, and bring not in at such a day his said letters, nor certificate, then the same person to lose the benefit of his clergy, as he shall do that is without orders.

If any Person in Orders ask his Clergy, he shall produce his Orders, or his Ordinary's Certificate.

[No. IX.] 23 Henry VIII. c. 1.—An Act concerning Convicts in Petit Treason, Murder, &c.

No. IX. 23 Hen. VIII. c. 1.

'WHERE at a Parliament holden at *Westminster* in the third year of King *Edward* the First, the same King moved the prelates of the realm, and them enjoined upon their faith that they owed to him, that in no wise they should deliver those clerks which were indicted for felony, without due purgation, so that the said King should have no need to put other remedy in that behalf; and that notwithstanding that monition, divers and many clerks convict were accustomably delivered, and suffered to make their purgations, to the great courage of evildoers:

Clergy not allowed to any Person under a Subdeacon. 4 H. 4. c. 3.

II. 'By occasion whereof afterward, at another Parliament holden at *Westminster* in the fourth year of King *Henry* the Fourth, upon the complaint of the Commons, the same King *Henry* the Fourth then advertised the prelates of the realm of the premises, intending them to have provided remedy by authority of the said Parliament, as appertained to his prerogative royal, for the conservation of the peace of the crown; at which time the archbishop of *Canterbury*, for himself and all other bishops of his province, then openly promised to the said King *Henry* the Fourth, That if any person from thenceforth were convict of any treason which touched not the King nor his royal Majesty, and such as were notoriously known and reputed for thieves, and for such cause delivered to any ordinary as a clerk convict, that the ordinary, to whom such person or persons were delivered, should safely keep them after the effect of a constitution provincial, to be made by the said archbishop and bishops after the effect

The promise of the Clergy to the King for the safe keeping of notorious Offenders convict without Purgation.

No. IX.
23 Hen. VIII. c. 1.

'of the letters of *Simon*, then afore that time archbishop of *Canterbury*, bearing date the xij calends of *March*, the year of our Lord God M.CCC.L. And that no such traitor nor felon should make his purgation against the said constitution; which constitution the said archbishop then promised to deliver to the same King before his next Parliament, to the intent that if it should seem to the same King, that the same constitution were not sufficient remedy for the premisses, that then the said King might provide such remedy, as should appertain in that behalf. Sithen which time, the same constitution was never notified ne shewed by the prelates of this realm, but continually sithen that time manifest thieves and murderers, indicted and found guilty of their misdeeds by good and substantial inquests, and upon plain and provable evidence before the King's justices, and afterwards by the usages of the common laws of the land delivered to the ordinaries as clerks convict, be speedily and hastily delivered and set at large by the ministers of the said ordinaries, for corruption and lucre; or else because the ordinaries, enclaiming such offenders by the liberties of the church, will in no wise take the charges in safe keeping of them, but little regarding the trial and conviction of the said offenders by the due and plain course of the common laws of the land, do suffer them to make their purgations by such as nothing know of their misdeeds; and by such fraud annul and make void all the good and proveable trial that is used against such offender by the King's laws, to the great slander of such as pursue such misdoers, and to the pernicious example, increase, and courage of such offenders, if the King's highness, by his authority royal, put not speedy remedy in the premisses, as appertaineth:'

The ordinary's abuse in suffering notorious felons to make purgation.

III. Be it therefore enacted by the King our Sovereign Lord, and the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by authority of the same, That no person nor persons, which hereafter shall happen to be found guilty after the laws of this land, for any manner of petit treason, or for any wilful murder of malice prepensed, or for robbing of any churches, chapels, or other holy places, or for robbing of any person or persons in their dwelling houses, or dwelling place, the owner or dweller in the same house, his wife, his children or servants then being within, and put in fear and dread by the same, or for robbing of any person or persons in or near about the highways, or for wilful burning of any dwelling houses, or barns wherein any grain of corns shall happen to be, nor any person or persons being found guilty of any abetment, procurement, helping, maintaining or counselling of or to any such petit treasons, murders, or felonies, shall from henceforth be admitted to the benefit of his or their clergy, but utterly be excluded thereof, and suffer death in such manner and form, as they should have done for any the causes or offences abovesaid, if they were no clerks; such as be within holy orders, that is to say, of the orders of sub-deacon, or above, only except (1).

Clergy taken from several persons which do commit divers offences. Extended to countries where the robbery, &c. was not committed.

IV. And be it further enacted by the authority aforesaid, That every such person and persons within such orders of sub-deacon, or above, which at any time hereafter be found guilty of any petit treason, or of any murder of malice prepensed, or of any of the felonies above rehearsed, or of any accessary to petit treason, wilful murder, or to any other the felonies above specified, and admitted to his or their clergy, and delivered to the ordinary for the same, shall not in any wise from henceforth be suffered to any purgation, nor be set at liberty, but remain and abide in perpetual prison, under the keeping of the ordinary, to whom he shall be committed, and his successors, without any manner of purgation during the natural life of every such convict, except only such person or persons so being within such holy orders, and convict of or for any of the offences aforesaid, and delivered to the ordinary for the same, do find two sufficient sureties by recognisance before two of the King's justices of his peace, within the same shire wherein the petit treason, murder, or felony, whereof he was convicted, was committed and done, whereof one of them to be of the *quorum*, that such convict shall be of good abearing against the King our Sovereign Lord, his laws

None within holy orders convict of murder, &c. shall make purgation, unless he become bound with sureties for his good abearing.

(1) These offences, with some others, are altogether excluded from clergy by stat. 1 Edward VI. c. 12. ante, Class II. No. 18.

No. IX. 23 Hen. VIII. c. 1.

and subjects, every such convict to be bound in the sum of xl. li. and every his sureties in xx. li. and that no surety be taken, unless such as may dispend in lands, tenements, or hereditaments, yearly, above all charges, of estate of inheritance of charterhold, xxvi. s. viii. d. or else be worth xx. li. in moveable substance at the time of the taking such recognisance; and that two justices of peace, whereof one to be of the *quorum*, by authority aforesaid, have power and authority to take such recognisance; and that the said justices, afore whom any such recognisance shall be taken, shall certify the same into the King's Bench, within four months next after the taking thereof, upon pain to lose and forfeit C. s. for every default thereof.

Of what estate the sureties shall be.

He that is attaint of felony shall not make his purgation.

V. Provided alway, That this Act extend not to give any benefit to any such person or persons, which, after their confession, or judgment given against them, of or for felony, or murder, or after they be outlawed for any such cause, be admitted to their clergy, and delivered to the ordinary for the same, but that they and every of them shall remain in the custody of the ordinaries without making purgation, upon such peril, and in such manner and form, as it was used by the common law before the making of this present Act; this Act or any thing therein contained notwithstanding.

An ordinary may degrade a convict person, and send him to the King's Bench.

VI. Provided always, and it is further enacted, That every ordinary, to whose custody any such convict for any of the offences above rehearsed shall be committed, may at his liberty disgrade every such convict after the laws of the church, if he see cause so to do, and send the convict so disgraded, in sure and safe keeping, into the King's Bench, with a certificate under his seal, testifying the said disgrading, upon which the justices of the King's Bench, having afore them the record upon which the said person so disgraded was first convict, shall give such like judgement of death upon the same record, against every such person so convict, and disgraded, as the justices afore whom he was convict might have done if the said person so disgraded, at the time of his conviction afore them, had been no clerk; his admission to his clergy, and committing to the ordinary, ne any other thing, use or custom to the contrary hereof notwithstanding; and that every such judgement shall be executed accordingly; and that every ordinary so sending any such convict disgraded into the King's Bench, shall be discharged against the King our Sovereign Lord, his heirs and successors, of or for any further custody or keeping of the same convict. This Act to continue unto the last day of the next Parliament.

P.

[No. X.] 34 and 35 Henry VIII. c. 14.—An Act for a Certificate of Convicts to be made into the King's Bench.

No. X. 34 and 35 Hen. VIII. c. 14.

'WHERE before this time divers persons have been indicted, arraigned and attainted, and some of them clerks convict, and some of them clerks attainted, and some of them outlawed for murder, burglary, robbery and other felonies, before justices of the peace, justices of gaol-delivery and justices of *Oyer* and *Determiner*, within divers cities, counties, franchises and liberties within this realm, the records of which attainders, outlawries and convictions, often and many times by negligence of the clerk of the crown, clerks of peace, clerks of assize, and such other as have had the order, rule, keeping and governance of the same records, have been imbezled and not ready to be objected against such persons as have been newly arraigned before our Sovereign Lord the King in his Bench, or before other the King's justices, for like and such other offences by them committed or done; and for that it hath not been certainly known whither to resort for the same records, because they were not certified into any place certain, by reason whereof sometime such persons and like offenders which have been newly arraigned, as is aforesaid, have had the benefit of his or their clergy where they ought not, ne should have had the same, if the said records had then been present in the same place where such person or persons were so newly arraigned, or else certified into some other place certain, where the same records might have been seen, sent for, or written for, to have been objected against such person or persons so newly arraigned; whereby as well the King our Sovereign Lord, as also all other persons, have many times lost their escheats, and other advantages

'and forfeitures that they should have had by mean of the said attainders, 'to the great losses both of our said Sovereign Lord the King, and other 'persons; and also the same offenders have had their clergy where they 'ought not so to have had, to the great boldness and encouraging of like of- 'fenders.'

No. X. 34 and 35 Hen. VIII. c. 14.

[II. Clerks of assise, &c. shall certify into the King's Bench the names of such as be outlawed, attainted or convicted of felony.—A transcript of an indictment delivered to the ordinary.—The clerk of the crown shall receive the certificates.]

[III. No more names shall be certified than are attainted, convicted, &c.]

[IV. The clerk of the crown shall certify the names of convicts to the justices.]

[V. No certificate out of Wales, Chester, Lancaster, Durham.]

[No. XI.] 1 Edward VI. c. 12.—An Act for the Repeal of certain Statutes concerning Treasons and Felonies.

[Inserted at large Class II. No. 18.]

No. XI. 1 Edw. VI. c. 12.

XIV. AND over that, be it enacted by the authority aforesaid, That in all and every case and cases, where any of the King's Majesty's subjects shall and may, upon his prayer, have the privilege of clergy as a clerk convict, that may make purgation; in all those cases and every of them, and also in all and every case and cases of felony, wherein the privilege and benefit of clergy is restrained, excepted or taken away by this Statute or Act, (wilful murder and poisoning of malice prepensed only excepted) the lord and lords of the Parliament, and peer and peers of the realm, having place and voice in Parliament, shall by virtue of this present Act, of common grace, upon his or their request or prayer, alledging that he is a lord or peer of this realm, and claiming the benefit of this Act, though he cannot read, without any burning in the hand, loss of inheritance or corruption of his blood, be adjudged, deemed, taken and used for the first time only, to all intents, constructions and purposes, as a clerk convict, and shall be in case of a clerk convict, which may make purgation, without any further or other benefit or privilege of clergy to any such lord or peer from thenceforth at any time after for any cause to be allowed, adjudged or admitted; any law, statute, usage, custom, or any other thing to the contrary in any wise notwithstanding.

A lord of the Parliament shall have his clergy for his first offence of felony, though he cannot read, and without burning.

XVI. And be it further enacted by the authority aforesaid, That if any person or persons, that by this statute or by any other statutes or laws of this realm ought to have or be admitted to the benefit of his or their clergy; that the same person and persons shall be from henceforth admitted and allowed to have his or their clergy, although they or any of them have been divers and sundry times married to any single woman or single women, or to any widow or widows, or to two wives or more; any law, statute, or usage to the contrary in any wise notwithstanding.

Bigamus allowed his clergy.

[No. XII.] 4 and 5 Philip and Mary, c. 4.—An Act that Accessaries in Murder and divers Felonies shall not have the Benefit of Clergy.

[See Class IV. No. 13.]

[No. XIII.] 8 Elizabeth, c. 4.—An Act to take away the Benefit of Clergy from certain Offenders for Felony.

[Inserted Class VII. No. 11.]

[Sec. III. Where one shall be arraigned for a former offence, having his clergy for a latter.]

[No. XIV.] 18 Elizabeth, c. 7.—An Act to take away Clergy

from the Offenders in Rape or Burglary, and an Order for the Delivery of Clerks convict without Purgation.

[Inserted Cl. V. No. 10.]

[Sec. II. No man allowed his clergy shall be committed to the ordinary, but presently delivered.]

[III. The justices may retain offenders in prison for a time.]

[V. He that is allowed his clergy shall answer to other felonies.]

[No. XV.] 21 James I. c. 6.—An Act concerning Women convicted of small Felonies.

No. XV. 21 James I. c. 6.

'WHEREAS by the laws of this realm the benefit of clergy is not allowed to women convicted of felony, by reason whereof many women do suffer death for small causes;' be it enacted by the authority of this present Parliament, That any woman being lawfully convicted by her confession, or by the verdict of twelve men, of or for the felonious taking of any money, goods or chattels above the value of twelve-pence, and under the value of ten shillings, or as accessary to any such offence, the said offence being no burglary nor robbery in or near the highway, nor the felonious taking of any money, goods, or chattels, from the person of any man or woman privily, without his or their knowledge, but only such an offence, as in the like case a man might have his clergy, shall for the first offence be branded and marked in the hand, upon the brawn of the left thumb, with a hot burning iron, having a Roman T upon the said iron: The said mark to be made by the gaoler openly in the court before the Judge; and also to be further punished by imprisonment, whipping, stocking, or sending to the house of correction, in such sort, manner, and form, and for so long time (not exceeding the space of one whole year), as the judge, judges, or other justices, before whom she shall be so convicted, or which shall have authority in the cause, shall in their discretion think meet, according to the quality of the offence, and then to be delivered out of prison for that offence; any law, custom, or usage to the contrary notwithstanding. This Act to continue until the end of the first session of the next Parliament. [3 Car. 1. c. 4. continued until the end of the first session of the next Parliament, and farther continued by 16 Car. I. c. 4.]

For felony where clergy allowed to the man, the woman shall be burned in the hand.

[No. XVI.] 3 William and Mary, c. 9.—An Act to take away Clergy from some Offenders, and to bring others to Punishment.

[Inserted Cl. VII. No. 17.]

[Sec. VI. Women convict of crimes for which men have their clergy, upon prayer punished as men. By 4 and 5 W. and M. c. 24. sec. 13. Women to have clergy but once.]

[VII. Where a person has had his clergy in another county, clerk of the crown, &c. shall certify it.]

W.

[No. XVII.] 4 and 5 William and Mary, c 24.—An Act for reviving, continuing and explaining several Laws therein mentioned, which are expired and near expiring.

No. XVII. 4 and 5 W. and M. c. 24.

XIII. 'AND whereas by an Act made at the last session of this present Parliament, intituled, *An Act to take away Clergy from some Offenders, and to bring others to Punishment*, it was enacted, in cases where a man, being convicted of felony, might demand the benefit of his clergy, a woman convicted for such like offence, and praying the benefit of that statute, should not have judgement of death given against her upon such conviction, or execution awarded upon any outlawry for such offence, but should suffer the same punishment as a man who hath the benefit of his clergy in the like case should suffer: And whereas some doubt hath ari-

'sen upon the said statute, whether a woman should have the benefit 'thereof more than once;' be it therefore declared and enacted by the authority aforesaid, That if any woman hath been, or at any time hereafter shall be convicted of any felony, for which a man might have the benefit of clergy, and upon her prayer hath once had, or hereafter shall once have the benefit of the said statute, and shall be again convicted of any other felony, for which a man might have the benefit of his clergy, such woman shall be, and is hereby totally excluded from having any benefit or advantage of the said statute, but shall suffer pains of death in such and the same manner as if the said statute had not been made. And be it further enacted, That the said last mentioned Act shall continue and be in force for the space of three years, from the thirteenth day of *February* one thousand six hundred and ninety-two, and from thence to the end of the next session of Parliament, and no longer. [Made perpetual by 6 and 7 W. III. c. 14. sect. 1*.]

No. XVII. 4 and 5 W. and M. c. 24.

Women to have benefit of clergy only once.

3 & 4 W. & M. c. 9. continued for three years.

* Further parts in Vol. II. and Vol. III.

[No. XVIII.] 10 and 11 William III. c. 23.—An Act for the better apprehending, prosecuting, and punishing of Felons that commit Burglary, House-breaking, or Robbers in Shops, Warehouses, Coach-houses, or Stables, or that steal Horses.*

[Sec. VI. Persons convicted of theft or larceny, instead of burning in the hand, to be burnt in the left cheek in open court.]

* At length, infrà.

[No. XIX.] 5 Anne, c. 6.—An Act for repealing a Clause in an Act, intituled *An Act for the better apprehending, prosecuting, and punishing Felons that commit Burglaries, House-breaking, or Robberies in Shops, Warehouses, Coach-houses, or Stables, or that steal Horses.*

[Inserted Cl. VII. No. 20.]

[I. 10 and 11 W. III. c. 23. Clause for burning offenders in the cheek repealed.]

[II. Offenders to be burnt in the hand as formerly; and committed to workhouse, &c. for six months, &c. Penalty on such as refuse to work.]

[III. If offenders escape and be retaken, to be committed to workhouse for twelve months, &c. and kept at hard labour.]

[IV. Felons convict to have benefit of this Act, without being required to read, &c.]

[No. XX.] 4 George I. c. 11.—An Act for the further preventing Robbery, Burglary, and other Felonies, and for the more effectual Transportation of Felons and unlawful Exporters of Wool; and for declaring the Law upon some Points relating to Pirates.

'WHEREAS it is found by experience, that the punishments inflicted by the laws now in force against the offences of robbery, larceny, and 'other felonious taking and stealing of money and goods, have not proved 'effectual to deter wicked and evil-disposed persons from being guilty of 'the said crimes: And whereas many offenders to whom royal mercy hath 'been extended, upon condition of transporting themselves to the *West 'Indies*, have often neglected to perform the said condition, but returned 'to their former wickedness, and been at last for new crimes brought to a

No. XX. 4 Geo. I. c. 11.

This Act is inforced, 6 Geo. 1. c. 23.

No. XX. 4 Geo. I. c. 11.

'shameful and ignominious death: And whereas in many of his Majesty's 'colonies and plantations in *America*, there is great want of servants, who 'by their labour and industry might be the means of improving and making 'the said colonies and plantations more useful to this nation:' Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, That where any person or persons have been convicted of any offence within the benefit of clergy, before the twentieth day of *January* one thousand seven hundred and seventeen, and are liable to be whipt or burnt in the hand, or have been ordered to any workhouse, and who shall be therein on the said twentieth day of January; as also where any person or persons shall be hereafter convicted of grand or petit larceny, or any felonious stealing or taking of money or goods and chattels, either from the person, or the house of any other, or in any other manner, and who by the law shall be entitled to the benefit of clergy, and liable only to the penalties of burning in the hand or whipping (except persons convicted for receiving or buying stolen goods, knowing them to be stolen), it shall and may be lawful for the court before whom they were convicted, or any court held at the same place with the like authority, if they think fit, instead of ordering any such offenders to be burnt in the hand, or whipt, to order and direct, that such offenders, as also such offenders in any workhouse as aforesaid, shall be sent, as soon as conveniently may be, to some of his Majesty's colonies and plantations in *America* for the space of seven years; and that court before whom they were convicted, or any subsequent court held at the same place, with like authority as the former, shall have power to convey, transfer and make over, such offenders, by order of court, to the use of any person or persons who shall contract for the performance of such transportation, to him or them, and his and their assigns, for such term of seven years: and where any persons have been convicted, or do now stand attainted of any offences whatsoever, for which death by law ought to be inflicted, or where any offenders shall hereafter be convicted of any crimes whatsoever, for which they are by law to be excluded the benefit of clergy, and his Majesty, his heirs or successors, shall be graciously pleased to extend royal mercy to any such offenders, upon the condition of transportation to any part of *America*, and such intention of mercy be signified by one of his Majesty's principal secretaries of state, it shall and may be lawful to and for any court having proper authority, to allow such offenders the benefit of a pardon under the great seal, and to order and direct the like transfer and conveyance to any person or persons (who will contract for the performance of such transportation), and to his and their assigns, of any such before-mentioned offenders, as also of any person or persons convicted of receiving or buying stolen goods, knowing them to be stolen, for the term of fourteen years, in case such condition or transportation be general, or else for such other term or terms as shall be made part of such condition, if any particular time be specified by his Majesty, his heirs and successors, as aforesaid; and such person or persons so contracting, as aforesaid, his or their assigns, by virtue of such order of transfer as aforesaid, shall have a property and interest in the service of such offenders for such term of years.

Persons convicted of offences within benefit of clergy, except receivers and buyers of stolen goods, shall be sent to the plantations for seven years.

Court to contract for their transportation.

Persons convicted of offences, excluded benefit of clergy, and also receivers and buyers of stolen goods may be transported for 14 years; and persons contracting for their transportation have property in their service.

II. And be it further enacted by the authority aforesaid, that if any offender or offenders, so ordered by any such court to be transported for any term of seven years or fourteen years, or other time or times, as aforesaid, shall return into any part of *Great Britain* or *Ireland* before the end of his or their said term, he or she so returning, as aforesaid, shall be liable to be punished as any person attainted of felony without the benefit of clergy; and execution may and shall be awarded against such offender or offenders accordingly: Provided nevertheless, That his Majesty, his heirs and successors, may at any time pardon and dispense with any such transportation, and allow of the return of any such offender or offenders from *America*, he or they paying their owner or proprietor, at the time of any such pardon, dispensation, or allowance, such sum of money as shall be adjudged reasonable by any two justices of the peace residing within the province where such

Returning before expiration of term, death.

The King may pardon such transportation, the offender paying his owner.

owner dwells; and where any such offenders shall be transported, and shall have served their respective terms, according to the order of any such court, as aforesaid, such services shall have the effect of a pardon to all intents and purposes, as for that crime or crimes for which they were so transported, and shall have so served, as aforesaid.

No. XX. 4 Geo. I. c. 11.

Contractors to give security,

III. And be it further enacted by the authority aforesaid, That every such person or persons to whom any such court shall order any such offenders to be transferred or conveyed as aforesaid, before any of them shall be delivered over to such person or persons, or his or their assigns, to be transported, as aforesaid, he or they shall contract and agree with such person or persons as shall be ordered and appointed by such court as aforesaid, and give sufficient security to the satisfaction of such court, that he or they will transport, or cause to be transported effectually such offenders so conveyed to him or them, as aforesaid, to some of his Majesty's colonies and plantations in *America*, as shall be ordered by the said court, and procure an authentick certificate from the governor, or the chief custom-house officer of the place (which certificate they are hereby required to give forthwith, without fee or reward, as soon as conveniently may be), of the landing of such offenders so transferred, as aforesaid, in that place whereto they shall be ordered (death and casualties of the sea excepted), and that none of the said offenders shall be suffered to return from the said place to any part of *Great Britain* or *Ireland* by the wilful default of such person or persons so contracting, as aforesaid, or by the wilful default of his or their assigns.*

and procure certificates from the governor, &c.

V. 'And whereas there are many idle persons who are under the age of 'one and twenty years, lurking about in divers parts of *London*, and elsewhere, who want employment, and may be tempted to become thieves, if 'not provided for: And whereas they may be inclined to be transported, 'and to enter into services in some of his Majesty's colonies and plantations 'in *America*; but as they have no power to contract for themselves, and 'therefore that it is not safe for merchants to transport them, to take them 'into such services:' Be it enacted by the authority aforesaid, That where any person of the age of fifteen years or more, and under the age of twenty-one, shall be willing to be transported, and to enter into any service in any of his Majesty's colonies or plantations in *America*, it shall and may be lawful for any merchant, or other, to contract with any such person, for any such service, not exceeding the term of eight years; Provided such person so binding him or herself do come before the lord mayor of *London*, or some other justice of the peace of the city, if such contract be made within the same, or the liberties thereof, or before some other two justices of the peace of the place where such contract shall be made, if made elsewhere, and before such magistrate or magistrates acknowledge such consent, and do sign such contract in his or their presence, and with his or their approbation; and that then it shall be lawful for any such merchant or other, to transport such person so binding him or herself, and to keep him or her within any of the said plantations or colonies, according to the tenor of such contract as aforesaid; any law or statute to the contrary in any wise notwithstanding; which said contract and approbation of such magistrate or magistrates, with the tenor of such contract, shall be certified by such magistrate or magistrates to the next general quarter-sessions of the peace, held for that county where such magistrate or magistrates shall reside, to be registered by the clerk of the peace without fee or reward.

Merchants, or others, may contract with persons of the age of 15, and under 21, to serve them in America for 8 years.*

Contract, &c. to be certified to the quarter-sessions.

* See supra for s. 4.

[No. XXI.] 6 George I. c. 23.—An Act for the further preventing Robbery, Burglary, and other Felonies, and for the more effectual Transportation of Felons.

No. XXI. 6 Geo. I. c. 23.

'I. WHEREAS the laws in being have not yet proved effectual to the 'suppressing of robbery, burglary, and other felonies, and to the 'transportation of felons, and some of the said laws wanting to be amended 'and enforced;' Be it enacted by the King's most excellent Majesty, by and

No. XXI. 6 George I. c. 23.

with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all the powers and authorities which are in and by an Act made in the fourth year of the reign of his present Majesty, intituled, *An Act for the further preventing Robbery, Burglary, and other Felonies, and for the more effectual Transportation of Felons, and unlawful Exporters of Wool; and for declaring the Law upon some Points relating to Pirates*, given to any court before whom any felons and offenders, tried for and convicted of any offences for which they may be sent or transported to any of this Majesty's colonies or plantations in *America*, shall and may be observed and executed by any other subsequent court with like authority, held for the same county, riding, division, or liberty, where such felons or offenders were or shall be tried and convicted, notwithstanding such other subsequent court shall happen to be held at or in any other town or place than that wherein such trials or convictions were or shall be.

All the powers given by 4 Geo. 1. c. 11. may be executed by any subsequent court, held for the same county, &c. though at another place.

[II. Such court may appoint two justices of the county, &c. to contract with any persons for the transporation of such felons; and may order the like security, and cause the felons to be delivered to the persons contracting: The contracts to be certified to the next court.]

[III. Charges about contracts, &c. to be borne by each county, &c. to be paid by the treasurer.]

[IV. Securities for transportation to be in the name of the clerks of the peace, who shall prosecute in their own names: and monies recovered on such bonds shall be to the use of the county, &c.]

[V. Persons contracting for transportation may secure such felons as they shall think fit: And rescuing them shall be guilty of felony.]

[VI. Felons ordered for transportation, being afterwards at large before the expiration of the term, shall suffer death.*]

* The substance of these sections is incorporated in stat. 56 Geo. III. c. 27. infrà.

[No. XXII.] 16 George II. c. 15.—An Act for the more easy and effectual Conviction of Offenders found at large within the Kingdom of *Great Britain*, after they have been ordered for Transportation.

No. XXII. 16 Geo. II. c. 15.

'WHEREAS many felons and other offenders already ordered, or here-
'after to be ordered for transportation, or who have upon certain
'conditions agreed to transport themselves, either for life, or for some term
'or number of years, according to law, have already or hereafter may come
'on shore, or return into *Great Britain*, before they have been actually
'transported or transported themselves to *America*, or have already, or
'may hereafter break gaol or escape before such transportation: And
'whereas many of the offenders aforesaid have escaped by reason of the
'great expence that is necessary for prosecuting such offenders to convic-
'tion;' For remedy whereof may it please your most excellent Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any felon or other offender already ordered, or hereafter to be ordered for transportation, or who hath already or hereafter shall agree to transport him or herself on certain conditions, to any of his Majesty's colonies and plantations in *America*, either for life, or any number of years, shall be afterwards at large within any part of the kingdom of *Great Britain*, without some lawful cause, before the expiration of the term for which he or she were so ordered to be transported, or had so agreed to transport him or herself; all and every such person or persons being thereof lawfully convicted, shall suffer death as in cases of felony, without benefit of clergy.

Convicts not transporting themselves, or returning before their time, to suffer death.

II. And be it further enacted by the authority aforesaid, That every such offender or offenders shall be tried for any of the offences aforesaid, before

Manner of trying con-

such judges, and in such manner, and the same evidence made use of, for his or her conviction, as is directed in and by the statute made in the sixth year of the reign of his late Majesty King *George* the First, intituled *An Act for the further preventing Robbery and Burglary, and other Felonies, and for the more effectual Transportation of Felons*, in cases of felons returning from transportation.

No. XXII. 16 Geo. II. c. 15.

victs returned from transportation.

III. And for the encouragement of such as shall prosecute to conviction any of the offenders aforesaid, be it further enacted by the authority aforesaid, That whoever shall discover, apprehend, and prosecute to conviction of felony without benefit of clergy, any such offender or offenders so found at large within the kingdom of *Great Britain*, shall be intitled to a reward of the sum of twenty pounds, for every such offender so convicted as aforesaid, and shall have the like certificate and like payments made without fee or reward, as any person or persons may be intitled unto for the apprehending, prosecuting, and convicting of highwaymen, by any law or laws for that purpose.

6 Geo. 1. c. 23. Reward on conviction of offenders.

[No. XXIII.] 8 George III. c. 15.—An Act for the more speedy and effectual Transportation of Offenders.

No. XXIII. 8 Geo. III. c. 15.

'WHEREAS several offenders, convicted of crimes for which they are by law excluded the benefit of clergy, are reprieved by the judge who 'tries them, and recommended by him to his Majesty's mercy; who gene- 'rally on such recommendation, is graciously pleased to extend the same 'to them, on condition of transportation to some of his Majesty's colonies 'and plantations in *America* for life, or for the term of fourteen years; and 'such intention of mercy, is signified by one of his Majesty's principal se- 'cretaries of state to the judges at the next assizes after such conviction, 'who thereupon order such offenders to be transported accordingly: And 'whereas, by this method of ordering the transportation, such offenders lie 'several months in gaol after conviction; whereby they are rendered less 'capable of being useful to the public in the parts of *America* to which they 'are sent; For remedy thereof, may it please your Majesty that it may be 'enacted,' and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That where any offender shall hereafter be convicted of any crimes for which he or she is by law to be excluded the benefit of clergy, and the judge or justice of oyer and terminer or goal delivery, in any county, city, or place, before whom any such offender shall be convicted or condemned, shall grant a reprieve for the staying of execution of such offender, and recommend him or her to his Majesty as a proper object of his Majesty's mercy; if his Majesty, his heirs, or successors, shall be graciously pleased to extend royal mercy to any such offender upon condition of transportation to any part of *America*, and such intention of mercy shall be signified by one of his Majesty's principal secretaries of state to the judge so recommending; it shall and may be lawful for every such judge, or justice of oyer and terminer or gaol delivery, to make an order for the immediate transportation of every such offender, in the same manner as if such intention of mercy had been signified to him by one of his Majesty's principal secretaries of state, during the continuance of the assize at which such offender was condemned; and such order shall be considered as an order made at such assizes or place, and shall be as effectual, to every intent and purpose, and shall have all the same consequences in every respect, as any order for the transportation of any offender made by any justice of oyer and terminer or gaol delivery for such county, city, or place; and such offender shall be transferred, conveyed, and made over, to any person who will contract for the performance of such transportation, and to his and their assigns, for the term of fourteen years, in case such condition of transportation be general; or else for such other term or terms as shall be made part of such condition, if any particular time be specified by his Majesty, his heirs and successors, as aforesaid: And such person or persons so contracting as aforesaid, his or their assigns, by virtue of such

No. XXIII. 8 Geo. III. c. 15.

order of transfer as aforesaid, shall have a property and interest in the service of the said offender, for such terms as aforesaid; and such transportation shall have the effect of a pardon under the great seal for such offender, as to the crime of which he or she was so convicted: But if such offender, so ordered for transportation, shall be afterwards at large within any part of this kingdom of *Great Britain*, without some lawful cause, before the expiration of the term for which such offender shall have been ordered to be transported; every such person, being thereof lawfully convicted, shall suffer death as in cases of felony without benefit of clergy; and shall be tried before such judges, and in such manner, and the same evidence made use of for his or her conviction, as are directed, by the laws now in being, for the trial of other felons found at large within this kingdom before the expiration of the term for which they were ordered to be transported: And whoever shall discover, apprehend, and prosecute to conviction of felony without benefit of clergy, any such offender so found at large within this kingdom, shall be intitled to the like reward of twenty pounds, and certificate, and in the same manner, as any person may be intitled to for discovering, apprehending, and prosecuting to conviction, any person ordered to be transported, and found at large within this kingdom before the expiration of the term for which such person was ordered to be transported (1).

(1) By the word transportation in this statute, is meant not merely the conveying of the felon to the place of transportation, but his being so conveyed, and remaining there during the term for which he is ordered to be transported; and, therefore, a felon attainted is not by that statute restored to his civil rights till after the expiration of the term for which he is ordered to be transported. Bullock v. Dodds, 2 B. & A. 258.

[No. XXIV.] 16 George III. c. 43.—An Act to authorise, for a limited Time, the Punishment by Hard Labour of Offenders who, for certain Crimes, are or shall become liable to be transported to any of his Majesty's Colonies and Plantations. *

* This was a temporary Act, passed for two years.—It was the Act which first introduced the punishment of the hulks.

P. [No. XXV.] 19 George III. c. 74.—An Act to explain and amend the Laws relating to the Transportation, Imprisonment, and other Punishment, of certain Offenders. *

No. XXV. 19 Geo. III. c. 74.

When any person is convicted of any crime punishable by transportation to America, the court may order him to be transported to any parts beyond the seas, either in Ame-

'WHEREAS the punishment of felons, and other offenders, by transportation to his Majesty's colonies and plantations in *America*, is attended with many difficulties:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the first day of *July* one thousand seven hundred and seventy-nine, when any person, at any session of oyer and terminer, or gaol delivery, or at any quarter or other general session of the peace, to be holden for any county, riding, liberty, division, city, corporation, or place, within that part of *Great Britain*, called *England*, or at any great session to be holden for the county palatine of *Chester*, or within the principality of *Wales*, shall be lawfully convicted of any grand or petty larceny, or any other crime, for which he or she is or shall be liable by law to be transported to any of his Majesty's colonies or plantations in *America*; or if any person convicted of such crime hath already been ordered to be so transported, but such order hath not yet been executed; it shall and may be lawful for the court before which any such person hath

* This Act, (which first provided for the system of penitentiary houses, but in that respect was never carried into execution,) is expired, except as to the clauses inserted.

been or shall be so convicted; or any court holden for the same place with like authority, if such court shall think fit, to order and adjudge that such person shall be transported to any parts beyond the seas, whether the same be situated in *America*, or elsewhere, in such and the like manner, and for any term of years not exceeding such and the same term as and for which such person is or shall be liable to be transported to any of his Majesty's colonies and plantations in *America* aforesaid; any law, statute, or usage to the contrary notwithstanding (1).

rica, or elsewhere.

II. And be it further enacted, That when any such person who hath already been, or shall hereafter be so convicted, shall, in consequence thereof, be ordered to be transported to any parts beyond seas, or if his Majesty, his heirs and successors, shall hereafter be graciously pleased to extend the royal mercy to any offender convicted or attainted of any felony by which he or she is excluded from the benefit of clergy, or of such statutes as are equivalent thereunto, upon the condition of transportation to any parts beyond the seas as aforesaid, then and in any such cases all laws, statutes, usages, and customs now in force, with regard to the transportation of criminals to any of his Majesty's colonies or plantations in *America*, and their punishment for being afterwards at large, within any part of the kingdom of *Great Britain*, before the expiration of the several terms for which they were ordered to be transported, or had agreed to transport themselves, and particularly the several provisions contained in an Act, made in the fourth year of King *George* the First, intituled *An Act for the further preventing Robbery, Burglary, and other Felonies; and for the more effectual Transportation of Felons, and unlawful Exporters of Wool; and for declaring the Law upon some Points relating to Pirates:* and in one other Act, made in the sixth year of King *George* the First, intituled *An Act for the further preventing Robbery, Burglary, and other Felonies; and for the more effectual Transportation of Felons;* and in one other Act, made in the sixteenth year of his late Majesty King *George* the Second, intituled *An Act for the more easy and effectual Conviction of Offenders found at large within the Kingdom of* Great Britain, *after they have been ordered for Transportation;* and in one other Act, made in the eighth year of his present Majesty, intituled *An Act for the more speedy and effectual Transportation of Offenders*, shall take place, be in force, and enure, with regard to the transportation of all such offenders as aforesaid, to any part or parts beyond the seas, and with regard to their punishment for being afterwards at large in this kingdom before the expiration of their respective terms, in like manner as if the same had been repeated and specially inserted in this Act.

When any convict shall be ordered for transportation as aforesaid, or any offender, excluded from benefit of clergy, shall receive his Majesty's pardon on condition of transportation, all laws relating, &c. shall be in force.

III. 'And whereas the punishment of burning in the hand, when 'any person is convicted of felony within the benefit of clergy, is 'often disregarded, and ineffectual; and sometimes may fix a lasting mark 'of disgrace and infamy on offenders, who might otherwise become good 'subjects, and profitable members of the commonwealth;' be it therefore enacted, That from and after the passing of this Act, when any person shall, in any of the courts before mentioned, be lawfully convicted of any felony within the benefit of clergy, for which he or she is liable by law to be burned or marked in the brawn of the left thumb, it shall and may be lawful for the court before which any person shall be so convicted, or any court holden for the same place with the like authority, if such court shall think fit, instead of such burning or marking, to impose upon such offender such a moderate pecuniary fine as to the court in its discretion shall seem meet; or otherwise it shall be lawful, instead of such burning or marking, in any of the cases aforesaid, except in the case of manslaughter, to order and adjudge that such offender shall be once, or oftener, but not more than three times, either publickly or privately whipped, such private whipping to be inflicted in the presence of not less than two persons, besides the offender and the officer who inflicts the same; and in case of female offenders, in the presence of females only; and such fine or whipping, so imposed or inflicted, instead of such burning or marking, shall have the like effects and consequences to the party on whom the same, or either of them, shall be so

When any person is liable to be burnt in the hand, the court may, instead, impose a moderate fine; or order him to be whipped.

(1) This and the next section are continued by several Acts; and by stat. 55 Geo. III. c. 27. post, are continued to *May*, 1821.

No. XXV. 19 Geo III. c 74

imposed or inflicted, with respect to any discharge from the same, or other felonies, or any restitution to his or her estates, capacities and credits, as if he or she had been burned or marked as aforesaid (2).

IV. Provided always, and be it further enacted, That nothing in this Act contained shall abridge or deprive any of the said courts of the powers now vested in them by law, of detaining and keeping in prison, for any time not exceeding one year, or of committing to the house of correction, or public workhouse, to be kept to hard labour for any time not less than six months, or exceeding two years, any such offender as aforesaid; but that such offender may, if such court shall think fit, after such burning or marking, or after such whipping or fine, as shall by virtue of this present Act be inflicted or imposed instead thereof, be so detained or committed, and with such accumulated punishment, in case of escape from such house of correction or workhouse, as if this Act had never been made.

Punishment of persons who shall break prison, or escape custody.

LXV. And be it further enacted, That if any person who shall be ordered to hard labour in any of the places of confinement to be appointed by virtue of this Act, instead of being capitally punished, shall, at any time during the term for which he or she shall be so ordered to confinement, break prison, or escape from the place of his or her confinement, or in his or her conveyance to such place of confinement, or from the person or persons having the lawful custody of such offender, he or she so breaking prison or escaping, shall be guilty of felony, without benefit of clergy; but in case he or she so breaking prison, or escaping, hath been ordered to hard labour instead of transportation, he or she shall be punished by an addition of three years to the term for which he or she, at the time of his or her breach of prison, or escape, was subject to be confined; and if such person, so punished by such addition to the term of confinement, shall afterwards be convicted of a second escape, or breach of prison, he or she shall be adjudged guilty of felony, without benefit of clergy (3).

If any person shall rescue, or attempt to rescue, any offender ordered to hard labour, &c.

LXVI. And be it further enacted, That if any person shall rescue any offender, who by force of this Act, or any part of it, shall be ordered to hard labour, in any place of confinement appointed by virtue of this Act, either during the time of his or her conveyance to the place appointed for such hard labour, or whilst such offender shall be in the custody of the person or persons under whose care and charge he or she shall be so confined; or if any person shall be aiding or assisting in any such rescue; every such person so rescuing, aiding, or assisting, shall be guilty of felony, and may be ordered to hard labour in any place of confinement appointed by virtue of this Act, for any term not less than one, nor exceeding five years: And if any person having the custody of any such offender as aforesaid, or being employed by the person having such custody, as a keeper, under keeper, turnkey, assistant or guard, shall voluntarily permit such offender to escape; or if any person whatsoever shall, by supplying arms, tools, or instruments of disguise, or otherwise, be in any manner aiding and assisting to any such offender in any escape, or in any attempt to make an escape, though no escape be actually made, or shall attempt to rescue any such offender, or be aiding and assisting in any such attempt, though no rescue be actually made, every such person so permitting, attempting, aiding, or assisting, shall be guilty of felony; and if any person having such custody, or being so employed by the person having such custody as aforesaid, shall negligently permit any such offender to escape, such person so permitting shall be guilty of a misdemeanor; and, being lawfully convicted of the same, shall be liable to fine or imprisonment, or to both, at the discretion of the court.

every such person shall be guilty of felony.

Trial and conviction of offenders for making escape, &c.

LXVII. 'And, to the intent that the prosecutions for escapes, breaches 'of prison, and rescues, may be carried on with as little trouble and expence as is possible;' be it further enacted, That any offender escaping, breaking prison, or being rescued, in manner aforesaid, may and shall be tried before the justices of oyer and terminer, or gaol delivery, or at the great sessions for the county where he or she shall be apprehended and retaken; and in case of any prosecution for any such escape, attempt to

(2) This and the next section are made perpetual by 39 Geo. III. c. 45.

(3) This and the two following sections are incorporated, by reference, in stat. 31 Geo. III. c. 46.

No. XXV. 19 Geo. III. c. 74.

escape, breach of prison, or rescue, either against the offender escaping, or attempting to escape, or having broke prison, or been rescued, or against any other person or persons concerned therein, or aiding, abetting, or assisting the same, a copy, properly attested, of the certificate herein-before directed to be given to the sheriff or gaoler by the clerk of the assize, or other clerk for the time being of the court in which such offender shall be convicted, and by such sheriff or gaoler to be delivered, together with the offender, to such governor or superintendant as aforesaid, and by such governor or superintendant to be transmitted to the clerk of the peace, to be filed with the records of the sessions, shall, after proof made that the person then in question before the court is the same that was delivered with such certificate, be sufficient evidence to the court and jury, not only of the nature and fact of the conviction itself, and the species of confinement to which such person was ordered, but also that the person then in question is the same that was so convicted, and ordered to such confinement.

[For s. 70. see suprà.]

[No. XXVI.] 24 George III. sess. 2. c. 56.—An Act for the effectual Transportation of Felons and other Offenders; and to authorise the Removal of Prisoners in certain cases; and for other Purposes therein mentioned. *

* Repealed 56 Geo. III. c. 27. post; but note, that Act is only temporary.

[No. XXVII.] 25 George III. c. 46.—An Act for the more effectual Transportation of Felons, and other Offenders, in that Part of *Great Britain* called *Scotland*, and to authorise the Removal of Prisoners in certain cases.

No. XXVII. 25 Geo. III. c. 46.

His Majesty impowered to order, or to authorise two lords of justiciary to order, the removal of male prisoners under sentence of death, &c. from any gaol in Scotland to any other in Great Britain, &c.

IV. AND be it enacted by the authority aforesaid, That, from and after the passing of this Act, it shall be lawful for his Majesty, from time to time, by an order in writing, to be notified by one of his principal secretaries of state, or for any two or more of the lords of justiciary in *Scotland*, who shall be authorised by his Majesty, under his sign manual, to direct the removal of any male offender or offenders who now is or are, or hereafter shall be under sentence of death, but reprieved during his Majesty's pleasure, or under sentence or order of transportation, in that part of *Great Britain* called *Scotland*, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be removed from the gaol or prison in which such offender or offenders shall be confined, to such place of confinement within *Great Britain*, either at land, or on board any ship or vessel in the river *Thames*, or any navigable or other river, or within the limits of any port of *Great Britain*, as his Majesty, or others legally authorised as aforesaid, shall from time to time appoint; and every offender, who shall be so removed, shall continue in the said place of confinement, or be removed to or confined in any other such place or places as aforesaid, as his Majesty, or any others duly authorised as aforesaid, from time to time shall appoint, until such offender shall be transported according to law, or by the expiration of the term of such transportation, or otherwise, shall be intitled to his liberty, or until such offender be returned to the gaol or prison from which he shall have been so removed; and the sheriff, magistrate, or gaoler, having the custody of any offender, whose removal shall be ordered in manner aforesaid, shall, with all convenient speed, after the receipt of the notification of any such order, convey, or cause to be conveyed, every such offender to the place appointed, and there deliver him, together with a certificate, containing his christian name, surname, and age, and also the offence for which, and the court in which he was convicted, and the purport of his or her sentence, to the overseer or overseers of the said place to

Gaoler to deliver offenders according to such orders, with a proper certificate.

which such offender is so sent, who shall give a proper receipt, in writing, to the sheriff, magistrate, or gaoler, for his exoneration (1).

(1) This section is extended by stat. 56 Geo. III. c. 27. post.

[No. XXVIII.] 30 George III. c. 47.—An Act for enabling his Majesty to authorize his Governor or Lieutenant-Governor of such Places beyond the Seas, to which Felons or other Offenders may be transported, to remit the Sentences of such Offenders.

No. XXVIII. 30 Geo. III. c. 47.

Preamble. 24 G. 3. c. 56.

'WHEREAS by several orders made by his Majesty, by and with the advice of his Privy Council in pursuance of authority given to his Majesty in that behalf, by an Act passed in the twenty-fourth year of his Majesty's reign, intituled, *An Act for the effectual Transportation of Felons and other Offenders; and to authorize the removal of Prisoners in certain Cases, and for other Purposes therein mentioned;* his Majesty hath declared and appointed, by and with the advice aforesaid, That the eastern coast of *New South Wales*, and the islands thereunto adjacent, should be the place or places beyond sea to which certain felons and other offenders, should be conveyed and transported: And whereas several felons and other offenders have, in pursuance of the said Act, been conveyed and transported to the eastern coast of *New South Wales*, or the islands thereunto adjacent, there to remain during the terms or times for which they were so respectively sentenced to be transported by the courts in which they were convicted: And whereas his Majesty, by and with the advice of his Privy Council, may hereafter declare and appoint the place or places aforesaid, or some other place or places beyond sea, to be the place or places to which other felons and offenders shall hereafter be conveyed and transported; and such felons and offenders may be so transported accordingly: And whereas it would greatly advance the design of such sentences, so carried into execution as aforesaid, or which may hereafter be passed and carried into execution, that the governor, or (in case of his death or absence) the lieutenant-governor for the time being of such the place or places as aforesaid, should have power and authority to remit or shorten the time or term for which such felons and offenders as aforesaid have been or shall hereafter be transported, in cases where it shall appear that such felons, or other offenders are proper objects of the royal mercy:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That it shall be lawful for his Majesty, his heirs and successors, at all times, by his or their commission under the great seal of *Great Britain*, to authorize and impower the governor, or the lieutenant-governor for the time being, of such place or places as aforesaid, or of any of them, by an instrument in writing, under the seal of the government in which the place or places as aforesaid are or shall be situated, to remit, either absolutely or conditionally, the whole or any part of the time or term for which any such felons, or other offenders aforesaid, shall have been or shall hereafter be respectively conveyed and transported to such place or places as aforesaid; and that such instrument or instruments shall have the like force and effect, to all intents and purposes, as if his Majesty, his heirs and successors, had in such cases respectively signified his or their royal intention of mercy under his or their sign manual.

His Majesty, under the great seal, may authorize the governor, or lieutenant-governor, of New South Wales, &c. to remit the sentences of offenders.

II. And be it further enacted, That such governor or lieutenant-governor as aforesaid shall, by the first opportunity, transmit to one of his Majesty's principal secretaries of state, a duplicate, under the seal of the government, of each and every instrument as aforesaid by which the time or term of transportation of any such felons, or other offenders as aforesaid, hath been remitted or shortened; and that the names of such felons, and other offenders respectively, which shall be contained in such duplicates as afore-

Duplicates of instruments remitting sentences, to be transmitted to the secretary of state, &c.

said, shall be inserted in the next general pardon which shall pass under the great seal of *Great Britain*, after the receipt of such duplicate or duplicates by one of his Majesty's principal secretaries of state.

[No. XXIX.] 31 George III. c. 46.—An Act for the better regulating of Gaols, and other Places of Confinement.

[See Part VI. Cl. XXI. No. 26.]

[No. XXX.] 34 George III. c. 84.—An Act for erecting a Penitentiary House or Houses for confining and employing Convicts.—[*7th July* 1794.]

[No. XXXI.] 39 George III. c. 45.—An Act for making perpetual so much of an Act made in the nineteenth Year of the Reign of his present Majesty, chapter seventy-four, *videlicet*, on the twenty-sixth day of *November* one thousand seven hundred and seventy-eight, intituled, *An Act to explain and amend the Laws relating to the Transportation, Imprisonment, and other Punishment of certain Offenders*, as relates to the Punishment of burning in the Hand of certain Persons convicted of Felony within the Benefit of Clergy—[*20th May* 1799.]

[No. XXXII.] 43 George III. c. 15.—An Act to facilitate, and render more easy, the Transportation of Offenders.—[*29th December* 1802.]

[No. XXXIII.] 52 George III. c. 44.—An Act for the Erection of a Penitentiary House for the Confinement of Offenders convicted within the City of *London* and County of *Middlesex*; and for making Compensation to *Jeremy Bentham* Esquire, for the Non-performance of an Agreement between the said *Jeremy Bentham* and the Lords Commissioners of His Majesty's Treasury, respecting the Custody and Maintenance of Convicts.—[*20th April* 1812.]*

* This Act provided for the erection of a Penitentiary House at Millbank, for the purpose of confining offenders only convicted in London and Middlesex.—The Penitentiary House being completed, it is by stat. 56 Geo. III. c. 63. post, made applicable to the kingdom at large.

[No. XXXIV.] 53 George III. c. 162.—An Act to repeal a certain Provision respecting Persons convicted of Felony without Benefit of Clergy, contained in an Act made in the fifty-second Year of the Reign of his present Majesty, for the Erection of a Penitentiary House for the Confinement of Persons convicted within the City of *London* and County of *Middlesex*, and for making other Provisions in lieu thereof.—[*22d July* 1813.]

No. XXXIV. 53 Geo. III. c. 162. 52 G. 3. c. 44. § 47.

'WHEREAS it is necessary that so much of a certain Act, made in the 'fifty-second year of the reign of his present Majesty King *George* 'the Third, intituled, *An Act for the Erection of a Penitentiary House for* 'the Confinement of Offenders convicted within the City of London *and* 'County of Middlesex; *and for making Compensation to* Jeremy Bentham 'Esquire, *for the Non-performance of an Agreement between the said* Jeremy 'Bentham *and the Lords Commissioners of his Majesty's Treasury, respect-* 'ing the Custody and Maintenance of Convicts, as enacts, That in all cases 'where any court or courts shall think fit to sentence any person or per- 'sons, convicted before such court or courts of felony without benefit of 'clergy, to imprisonment as or for the punishment, or part of the punish- 'ment for such offence, such court or courts may, if they shall think fit so 'to do, moreover direct that the person or persons so convicted shall dur- 'ing such imprisonment be kept to hard labour, should be repealed, and 'that other provisions in lieu thereof should be made in respect to the 'sentences of persons convicted before such court or courts of felony with 'benefit of clergy;' May it therefore please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, and by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said Act as enacts, 'That in all cases where any court or courts shall think fit to sentence any person or persons, convicted before such court or courts, of felony without benefit of clergy, to imprisonment as or for the punishment, or part of the punishment for such offence, such court or courts may, if they shall think fit so to do, moreover direct that the person or persons so convicted shall during such imprisonment be kept to hard labour,' shall be and the same is hereby repealed; and that, from and after the passing of this Act, it shall and may be lawful for any court to pass upon any person, who shall be lawfully convicted before any such court of felony, with benefit of clergy, or of any grand larceny or of any petit larceny, the sentence of imprisonment to hard labour, either simply and alone, or in addition to any other sentence which such court may or shall be authorised by law to pass upon any person lawfully convicted of any of the offences aforesaid, as to such court shall seem fit; and such person shall thereupon suffer such other sentence, and be moreover imprisoned and kept to hard labour, or be simply imprisoned and kept to hard labour, in such place and for such time as such court shall think fit to direct, not exceeding the time for which such courts may now imprison for such offences.

repealed.

Felony, grand and petit larceny.

Punishment.

[No. XXXV.] 56 George III. c. 27.—An Act to amend several Laws relative to the Transportation of Offenders; to continue in Force until the first day of *May* one thousand eight hundred and twenty-one.—[*30th April* 1816.]

No. XXXV. 56 Geo. III. c. 27. 55 G. 3. c. 156. 19 G. 3. c. 74. 25 G. 3. c. 46.

'WHEREAS an Act passed in the last Session of Parliament, intituled, 'An Act to amend the Laws relative to the Transportation of Offenders, 'to continue in Force until the first day of May one thousand eight hundred 'and sixteen: And whereas it is expedient that the regulations and provi- 'sions of the said Act, and that certain of the provisions of two several 'Acts, passed in the nineteenth and twenty-fifth years respectively of the 'reign of his present Majesty, relating to the transportation and removal 'of offenders, should be continued:' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said recited Act of the last Session of Parliament shall be and the same is hereby continued, so far as relates to the repeal of the said therein recited Act of the twenty-fourth year of his present Majesty, intituled, *An Act for the effectual Transportation of Felons and other Offenders, and to authorize the Removal of Prisoners in certain cases, and for other Purposes therein mentioned.*

55 G. 3. c. 156. § 1. so far as relates to repeal of 24 G. 3. c. 56. continued.

[II. Provisions of 24 G. III. c. 56. valid in relation to proceedings commenced before Act of last session.]

III. And be it further enacted, That from and after the passing of this Act, it shall be lawful for the court before which any person or persons shall have been or shall be convicted, at any session of oyer and terminer or gaol delivery, or at any quarter or other general session of the peace to be holden for any county, riding, division, city, town, borough, liberty or place, within that part of *Great Britain* called *England*, or at any great sessions to be holden for the county palatine of *Chester*, or within the principality of *Wales*, of grand or petit larceny, or any other offence for which such person or persons shall have been or be subject to be transported, to order and adjudge, or any subsequent court holden at any place for the same county, riding, division, city, town, borough, liberty or place respectively, with like authority to order and adjudge, that such person or persons so convicted as aforesaid, shall be transported beyond the sea for any term not exceeding the number of years or term for which such person or persons is or are or shall be liable by any law to be transported; and in every such case it shall and may be lawful for his Majesty, by and with the advice of his privy council, to declare and appoint any other place or places, part or parts beyond the seas, in addition to such as shall have been heretofore declared and appointed by his Majesty for that purpose, either within his Majesty's dominions, or elsewhere out of his Majesty's dominions, to which any such felons or other offenders shall be conveyed or transported: and such court as aforesaid is hereby authorized and required to order such offenders to be transferred to the use of any person or persons, and his or their assigns, who shall contract for the due performance of such transportation; and when his Majesty, his heirs or successors, shall be pleased to extend mercy to any offender or offenders, who hath or have been or shall be convicted of any crime or crimes for which he, she or they is, are or shall be by law excluded from the benefit of clergy, upon condition of transportation to any place or places, part or parts beyond the seas, either for a term of life, or any number of years, and such intention of mercy shall be signified by one of his Majesty's principal secretaries of state, it shall be lawful for any court, having proper authority, to allow such offender or offenders the benefit of a conditional pardon, and to order such offender or offenders to be transported for such term of life or years as shall be specified in such condition of transportation as aforesaid, and to make such order of transfer as aforesaid; and when any offender or offenders hath or have been or shall be convicted of any crime or crimes for which he, she or they is or are by law excluded the benefit of clergy, the judge before whom such offender or offenders shall be convicted, or any justice of the King's Bench, Common Pleas, or Baron of the Exchequer, of the degree of the coif, in case the said offender or offenders shall have been tried in any court of oyer and terminer or gaol delivery in *England*, or any justice of *Chester* or *Wales*, in case the said offender or offenders shall be tried and convicted within any of their respective jurisdictions, shall, on such intention of mercy as aforesaid being signified to him by one of the said principal secretaries of state, make an order for the immediate transportation of such offender or offenders, and for such offender or offenders to be transferred as aforesaid, in the same manner as if such intention of mercy had been signified by one of the said principal secretaries of state during the continuance of the assizes or sessions at which such offender or offenders was or were condemned; and such order shall be considered as an order made at such assizes or sessions as aforesaid, and shall be as effectual, and have all the same consequences as any order for the transportation of any offender or offenders made by any justice of oyer and terminer, great session, or gaol delivery for any county, city, liberty, borough or place, during the continuance of the assizes or sessions; and such person or persons so contracting as aforesaid, his or their assigns, by virtue of such order of transfer as aforesaid, shall have a property in the service of such offender or offenders, for such term of life or years for which such offender or offenders shall have been ordered to be transported.

Persons convicted of any crime punishable by transportation, may be transported accordingly.

His Majesty may appoint places.

On intention of mercy signified.

Judge may make order for immediate transportation.

Contractor to have property in service of offender.

[IV. Fee to clerks of assize, &c. same as heretofore.]

No. XXXV. 56 Geo. III. c. 27.

[V. Persons undertaking to transport offenders, to give proper security.]

[VI. Court may appoint justices to contract for transportation of offenders, on security by bond. Securities to be certified by justices to the next court, and kept amongst the records. Charges of contract paid by order of quarter sessions.]

Persons contracting to transport offenders, may carry them through any county to seaport.

VII. And be it further enacted, That the person or persons so contracting as aforesaid, and to whom any offender or offenders shall be delivered in order to be transported, or any person or persons directed by the said justices (empowered to contract as aforesaid) or their assigns, may, in such manner as they shall think fit, carry and secure the said offenders in and through any county of *Great Britain*, towards the seaport or place from whence they are to be transported; and if any person or persons shall rescue such offenders or any of them, or assist them or any of them in making their escape from such person or persons as shall have them in their custody as aforesaid, he, she or they shall be adjudged guilty of felony, and shall suffer death as in cases of felony, without benefit of clergy.

Escape.

Death.

Person found at large before the expiration of his sentence.

VIII. And be it further enacted, That if any offender or offenders who shall have been or shall be so ordered by any such court as aforesaid to be transported, or who shall have agreed or shall agree to transport himself or herself on certain conditions, either for life or any number of years, under the provisions of the said recited Act of the twenty-fourth year aforesaid, or of the said recited Act of the last Session of Parliament, or any other Act or Acts of Parliament, to any such place or places, part or parts as shall have been or shall be appointed by his Majesty in manner aforesaid, shall be afterwards at large within any part of the united kingdom of *Great Britain* and *Ireland*, without some lawful cause, before the expiration of the term for which such offender or offenders shall have been ordered to be transported, or shall have so agreed to transport himself or herself as aforesaid, every such offender being at large as aforesaid, being thereof lawfully convicted, shall suffer death as in cases of felony, without benefit of clergy; and such offender or offenders may be tried either before the justices of assize, oyer and terminer, great sessions or gaol delivery, for the county, city, liberty, borough or place where such offender or offenders shall be apprehended and taken, or from whence he, she or they were ordered to be transported; and the clerk of the assize, clerk of the peace, or other officer or clerk of the court having the custody of the records where such order of transportation shall be made, shall, at the request of the prosecutor, or any other person on his Majesty's behalf, make out and give a certificate in writing signed by him, containing the effect and substance only (omitting the formal part) of every indictment and conviction of such offender or offenders, and of the order for his or her transportation, to the justices of assize, oyer and terminer, great sessions or gaol delivery, where such offender or offenders shall be indicted (not taking for the same more than six shillings and eight-pence) which certificate shall be sufficient proof of the conviction and order for the transportation of such offender or offenders; and whoever shall discover and prosecute to conviction any such offender or offenders so being at large as aforesaid, shall be entitled to a reward of twenty pounds for every such offender so convicted, and shall have such certificate to receive the same as any person or persons may be entitled unto for the apprehending and prosecuting to conviction persons who have committed any robbery upon the highway: Provided nevertheless, that his Majesty, his heirs and successors, may pardon and dispense with such transportation, and allow of the return of any such offender or offenders to this kingdom.

Death.

Offender where tried.

Certificate containing substance of indictment.

Fee.

Reward on conviction.

Proviso for pardon.

His Majesty empowered to order the removal of male prisoners.

IX. And be it further enacted, that from and after the passing of this Act, it shall be lawful for his Majesty, from time to time, by an order in writing to be notified by one of the said principal secretaries of state, or for any three or more of such of his Majesty's justices of the peace acting in and for the county, riding, division, city, borough, liberty or place in which any gaol shall be situated, as shall be authorized by his Majesty under his sign manual, to direct the removal of any male offender or offenders who shall be under sentence of death, but reprieved during his Majesty's pleasure, or under sentence or order of transportation, and who, having been

examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be removed from the gaol or prison in which such offender or offenders shall be confined, to such place of confinement within *England* or the dominion of *Wales*, either at land or on board any ship or vessel to be provided by his Majesty in the river *Thames*, or any navigable or other river, or within the limits of any port or harbour of *England* or *Wales*, as his Majesty, or any three of such justices authorized as aforesaid, shall from time to time appoint, under the management of a superintendant and overseer to be appointed by his Majesty, or any three or more of such justices authorized as aforesaid; and every offender who shall be so removed shall continue in the said place of confinement, or be removed to and confined in any other such place or places as aforesaid, as his Majesty, or any three or more of such justices authorized as aforesaid, from time to time shall appoint, until such offenders shall be transported according to law, or, by the expiration of the term of such transportation or otherwise, shall be entitled to his liberty, or until his Majesty, or any three or more of such justices so authorized as aforesaid, shall direct the return of such offender to the gaol or prison from which he shall have been so removed; and the sheriff or gaoler having the custody of any offender whose removal shall be ordered in manner aforesaid, shall with all convenient speed, after the receipt of the notification of any such order, convey or cause to be conveyed every such offender to the place appointed, and there deliver him to such superintendant or overseer, together with a true copy, attested by such sheriff or gaoler, of the caption and order of the court before which such offender was tried, containing the sentence of transportation of each such offender respectively, by virtue whereof he shall be in the custody of such sheriff or gaoler; and also a certificate containing his age, and an account of his behaviour in prison before and after his trial, and the gaoler's observations on his temper and disposition, and such information concerning his connexions and former course of life as may have come to the gaoler's knowledge; and such superintendant or overseer as aforesaid shall give a proper receipt in writing to the sheriff or gaoler for the discharge of such sheriff or gaoler.

Offender examined by surgeon.

Offender to remain in gaol until removed.

On receipt of order, gaoler or sheriff to remove offender, and deliver him to overseer, together with copy of caption.

[X. Fees to be paid as usual.—Expences paid by county, &c.]

[XI. For cleansing and purifying and clothing offenders.]

[XII. Overseers to have the same power as gaolers.—Time of imprisonment to be deemed part of term.]

XIII. And be it further enacted, that if any offender shall during such custody under this Act be guilty of any misbehaviour or disorderly conduct, it shall be lawful for such superintendant or overseer having the custody of such offender to inflict or cause to be inflicted such moderate punishment or correction as may be inflicted by law on persons committed to a house of correction; and if any such offender shall break from or unlawfully escape from the custody of such superintendant or overseer, or if any person shall rescue or attempt to rescue, or assist in rescuing any such offender from such custody, or shall convey or cause to be conveyed any disguise, instrument for effecting escape or arms to such offender, every such offence shall be punishable in the same manner as if such offender had been confined in a gaol or prison in the custody of the sheriff or other gaoler, for the crime of which such offender shall have been convicted.

Overseers may inflict moderate punishment for misbehaviour.

Escape or rescue.

Punishment.

[XIV. Superintendant to make returns of prisoners.—Times of returns.]

[XV. Appointment of superintendant.—Report of the treatment, earnings of prisoners, &c. to be laid before Parliament.—Continuance of superintendant, &c. in office.]

XVI. And be it further enacted, That if any offender hath already been ordered to be transported to any part beyond the seas, or if any order shall at any time hereafter be made for the transportation of any offender, and such order cannot be conveniently executed with respect to the place in such order mentioned, itshall be lawful for the Court of King's Bench, or (in the vacation time and out of term) for any two justices of the Court of King's Bench, Common Pleas or barons of the Court of Exchequer of the degree of the coif, to order that such offender shall be transported to any other part or place beyond the seas, which shall have been appointed by his Majesty for the transportation of such offenders, in such and the like manner and for

Judges may alter sentences of transportation.

No. XXXV. 56 Geo. III. c. 27.

the same term of years as such offender is or shall be liable to be transported to the place mentioned in the original sentence or order for his or her transportation; and such order shall be considered as made at the same time, and shall be as effectual to every intent and purpose, and shall have all the same consequences in every respect as the original order for the transportation of such offender; and such offender shall be transferred, conveyed and made over to any person who will contract for the performance of such transportation, and to his or their assigns, in like manner as if such offender had been transported to the place mentioned in the original order of transportation; and such person or persons so contracting as aforesaid, his or their assigns, by virtue of such order of transfer as aforesaid, shall have a property in the service of the said offender for the remainder of the term for which the offender was originally ordered to be transported; and in case any such offender so ordered for transportation shall be afterwards at large within any part of the kingdom of *Great Britain*, without some lawful cause, before the expiration of the term for which such offender shall have been ordered to be transported, every such offender, being thereof lawfully convicted, shall suffer death as in cases of felony, without benefit of clergy, and shall be tried before such judges, and in such manner, and the same evidence made use of for his or her conviction, as is or shall be directed by the laws now in being or hereafter to be made for the trial of other offenders, who shall be at large within this kingdom before the expiration of the term for which they were ordered to be transported; and whoever shall discover and prosecute to conviction any such offender so being at large within this kingdom as aforesaid, shall be entitled to a reward of twenty pounds for every such offender so convicted, and shall have such certificate to receive the same, as any person may be entitled to for the apprehending and prosecuting to conviction persons who have committed any robbery upon the highway.

Such order to have like effect as original order for transportation.

Offender found at large.

Death.

Reward on conviction.

[XVII. Account of expences laid before Parliament.]

[XVIII. General issue.—Treble costs.]

[XIX. Limitation of actions, six calendar months.]

19 G. 3. c. 74. § 1. 2.

XX. And be it further enacted, That so much of an Act passed in the nineteenth year of the reign of his present Majesty, intituled *An Act to explain and amend the Laws relating to Transportation, Imprisonment and other Punishment of certain Offenders*, as relates to transportation beyond seas, and so much of an Act passed in the twenty-fifth year of the reign of his present Majesty, intituled *An Act for the more effectual Transportation of Felons and other offenders in that Part of* Great Britain *called* Scotland, *and to authorize the Removal of Prisoners in certain Cases*, as authorizes the removal of offenders to temporary places of confinement, which were continued by subsequent Acts of the twenty-eighth, thirty-fourth, thirty-ninth, forty-second, forty-sixth, fifty-third and fifty-fourth years respectively of the reign of his present Majesty, until the twenty-fifth day of *March* one thousand eight hundred and fifteen, and until the end of the then next session of Parliament, shall be and the same is hereby continued for the term hereinafter mentioned.

25 G. 3. c. 46. § 4.

Continuance of Act.

XXI. And be it further enacted, that this Act shall continue and be in force until the first day of *May* one thousand eight hundred and twenty-one, and no longer.

[No. XXXVI.] 56 George III. c. 63.—An Act to regulate the General Penitentiary for Convicts, at *Millbank*, in the County of *Middlesex*.—[22*d June* 1816.]

No. XXXVI. 56 Geo. III. c. 63.

'WHEREAS under and by virtue of an Act passed in the fifty-second year of his present Majesty, for the erection of a penitentiary house for the confinement of offenders convicted within the city of *London* and county of *Middlesex*, and which Act, by the provisions thereof, was extended also to offenders convicted in other parts of *England* and *Wales*, a penitentiary has been erected at *Millbank*, in the county of *Middlesex*, for the confinement and employment of male and female convicts; and the same is now completed for the reception or a part of the number in-

52 G. 3. c. 44.

'tended to be confined therein: And whereas under and by virtue of the 'powers contained in the said Act, his Majesty in council has been pleased 'to appoint a committee to superintend the said penitentiary: And where- 'as the number of convicts who may be confined in the said penitentiary 'may conveniently be increased, without any enlargement of the building; 'and it is therefore expedient that provision should be made for that pur- 'pose: And whereas it is also expedient that other and further provisions 'should be made, for the due regulation of the said penitentiary, and of the 'convicts to be confined therein;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all the provisions in the said Act contained, so far as they relate to the number of convicts who may be confined in the said penitentiary, and to the confinement, employment and management of the convicts in the said penitentiary, and the establishment and duties of officers belonging to the same, shall be and the same are hereby repealed.

No. XXXVI. 56 Geo. III. c. 63.

Certain provisions of recited Act repealed.

[II. Supervisors may make accommodation for 400 male and 400 female convicts, who may be confined in the said penitentiary at the same time.]

[III. Committee to remain until another is appointed.]

[IV. Committee to make bye-laws, rules, &c.]

[V. Appointment of visitors.]

[VI. Appointment of officers, &c.]

[VII. Committee may vary the number of officers.]

[VIII. Committee may require security from any officer, &c. and in case of any officer, &c. refusing to quit possession, a justice for the county of *Middlesex* may by warrant direct sheriff to remove him.]

[IX. Governor to be a body corporate.]

[X. Governor empowered to contract for clothing, diet, &c. necessary for the convicts, with the approbation of the committee.]

[XI. Committee to direct how books shall be kept, &c.]

[XII. Committee may examine officers and servants, &c. upon oath, and may dismiss and prosecute for fraud or collusion.]

[XIII. Committee to certify to the principal secretary of state for the home department, when penitentiary shall be fit for the reception of convicts.]

Regulations as to the time of confinement of convicts sentenced to transportation, and removed to the penitentiary.

XIV. Provided always and be it further enacted, That in case any convict shall be removed to the said penitentiary, who, having been under sentence or order of transportation for the term of seven years, shall previously to his or her being removed to the said penitentiary, have been kept confined in some other gaol or prison, during a part of such term, such convict shall be confined in the said penitentiary under this Act, for five seventh parts of the residue of his or her term of seven years transportation, remaining unexpired, when he or she shall be received into the said penitentiary; excluding nevertheless from the computation of such reduced period of confinement, any fractional part of a week which may result from such reduction; and in case any convict shall be removed to the said penitentiary, who, having been under sentence or order of transportation for the term of fourteen years, shall, previously to his or her being so removed, have been kept confined in some other gaol or prison, during a part of such term, such convict shall be confined in the said penitentiary under this Act for one half of the residue of his or her term of fourteen years transportation remaining unexpired, when he or she shall be received into the said penitentiary; excluding nevertheless from the computation of such reduced period of confinement any fractional part of a day which may result from such reduction; and in the case of any convict who, having been under sentence or order of transportation for life, shall be removed to the said penitentiary for the term of ten years as aforesaid, such term of ten years shall be computed from the time of his or her being received into the said penitentiary.

[XV. Sheriffs or gaolers to deliver convicts to the penitentiary without delay.]

[XVI. Expences of such removal to be paid by the county, &c.]

[XVII. Governor to have the same power over convicts in his custody as a sheriff or gaoler.]

[XVIII. Insane convicts may be removed from and returned to penitentiary after recovery, as in cases of other prisoners in gaols.]

[XIX. Convicts, when brought, to be separately lodged and washed, and examined by the surgeon.—When discharged to be furnished with decent clothing.—Allowances.]

[XX. Keeping convicts to labour.]

[XXI. Convicts how to be lodged.]

[XXII. Hours of work.]

[XXIII. Granting rewards.]

[XXIV. Dividing convicts into classes.]

[XXV. Committee to report convicts, who shall manifest extraordinary diligence.]

[XXVI. How the convicts shall be fed and clothed.]

[XXVII. None but officers to enter any of the apartments.]

[XXVIII. Governor may employ convicts as servants.]

[XXIX. Punishing officers or servants supplying any convict with money, provisions, or liquor, contrary to this Act.]

[XXX. Chaplain to read morning and evening prayers, and preach two sermons on sundays, &c.]

[XXXI. Chaplain may baptize and bury in the penitentiary, and shall keep registers and transmit copy monthly to the incumbent of the parish, who is to enter the same in register, and may have allowance for so doing.]

[XXXII. Convicts to walk and air themselves.]

[XXXIII. Convicts, when sick, to be visited by the surgeon; and if necessary, be sent to the infirmary.]

[XXXIV. Committee to examine into the state of the penitentiary, and inspect the accounts.]

[XXXV. Governor empowered to hear complaints.]

[XXXVI. Enormous offenders to be confined by the governor, and reported to the committee.]

[XXXVII. Committee may administer oaths.]

[XXXVIII. Governor to keep regular books, and returns to be made therefrom.]

[XXXIX. Reports to be laid before the King in council, and both houses of Parliament.]

[XL. Bye-laws, rules, &c. to be reported to the King in council, and to both houses of Parliament.]

[XLI. Penitentiary to be exempt from public and parochial taxes.]

Expences of executing the Act to be laid before the House of Commons.

XLII. And be it further enacted, That an account of the expences of carrying this Act into execution shall be annually laid before the House of Commons, and after deducting therefrom such profit as may have arisen from the earnings of the convicts, over and above the expences occasioned by their labour, and any allowances which shall have been made to such convicts, or to the officers superintending such labour, by order of the committee, the remainder shall be provided for in the next supplies to be granted to his Majesty by Parliament.

Punishment of convicts breaking prison or escaping.

XLIII. And be it further enacted, That if any convict who shall be ordered to be confined in the said penitentiary shall at any time during the term of such confinement break prison, or escape from the place of his or her confinement, or in his or her conveyance to such place of confinement, or from the person or persons having the lawful custody of such convict, he or she so breaking prison or escaping shall be punished by an addition of three years to the term for which he or she at the time of his or her breach of prison or escape was subject to be confined; and if such convict so punished by such addition to the term of confinement shall afterwards be convicted of a second escape or breach of prison, he or she shall be adjudged guilty of felony, without benefit of clergy.

Punishing persons rescuing or attempting to rescue convicts.

XLIV. And be it further enacted, That if any person shall rescue any convict who shall be ordered to be confined within the said penitentiary, either during the time of his or her conveyance to the said penitentiary, or whilst such convict shall be in the custody of the person or persons under

whose care and charge he or she shall be so confined; or if any person shall be aiding or assisting in any such rescue, every such person so rescuing, aiding, or assisting, shall be guilty of felony, and may be ordered to be confined in the said penitentiary for any term not less than one year, nor exceeding five years; and if any person having the custody of any such convict as aforesaid, or being employed by the person having such custody as a keeper, underkeeper, turnkey, assistant, or guard, shall voluntarily permit such convict to escape; or if any person whatsoever shall, by supplying arms, tools, or instruments of disguise, or otherwise be in any manner aiding and assisting to any such convict in any escape, or in any attempt to make an escape, though no escape be actually made, or shall attempt to rescue any such convict, or be aiding and assisting in any such attempt, though no rescue be actually made, every such person so permitting, attempting, aiding, or assisting, shall be guilty of felony; and if any person having such custody, or being so employed by the person having such custody as aforesaid, shall negligently permit any such convict to escape, such person so permitting shall be guilty of a misdemeanor, and being lawfully convicted of the same, shall be liable to fine and imprisonment, or to both, at the discretion of the Court.

Mode of trial and conviction.

XLV. And to the intent that the prosecution for escapes, breaches of prison, and rescues, may be carried on with as little trouble and expence as possible, be it further enacted, That any convict escaping, breaking prison, or being rescued in manner aforesaid, may and shall be tried before the justices of oyer and terminer or gaol delivery, or at the great sessions, either for the county where he or she shall be apprehended and retaken, or for the county in which the said offence shall have been committed; and in case of any prosecution for any such escape, attempt to escape, breach of prison, or rescue, either against the convict escaping or attempting to escape, or having broken prison, or being rescued, or against any other person or persons concerned therein, or aiding, abetting, or assisting the same, a copy properly attested, of the order of commitment to such penitentiary shall, after proof made that the person then in question before the Court is the same that was delivered with such order, be sufficient evidence to the Court and jury that the person then in question was so ordered to such confinement.

[XLVI. The committee or visitors may direct any persons not being officers, servants, or convicts, to quit the penitentiary.]

[XLVII. Other Acts relating to gaols, &c. not to apply to the penitentiary.]

[XLVIII. Recovery of penalties.]

[XLIX. General issue to be pleaded.—Treble costs.]

[L. Limitation of actions.]

[LI. Act may be altered this session.]

[No. XXXVII.] 58 George III. c. 68.—An Act to repeal so much of an Act passed in *Ireland* in the ninth Year of the Reign of Queen *Anne*, intituled *An Act for taking away the Benefit of Clergy in certain Cases; and for taking away the Book in all Cases; and for repealing Part of the Statute for transporting Felons;* as takes away the Benefit of Clergy from Persons stealing privily from the Person of another; and more effectually to prevent the Crime of Larceny from the Person.—[3*d June*, 1818.]

WHEREAS by an Act passed in *Ireland* in the ninth year of the reign of Queen *Anne*, intituled *An Act for taking away the Benefit of Clergy in certain Cases; and for taking away the Book in all Cases; and for repealing Part of the Statute for transporting Felons;* it is amongst other things enacted, That if any person should, after the last day of *September* in the year one thousand seven hundred and ten, steal or feloniously take away any goods, of the value of five shillings or more, privily and secretly from

Irish Act, 9 Anne.

No. XXXVII. 58 Geo. III. c. 68.

the person of any man or woman, and being indicted or appealed thereof, should be thereupon found guilty by verdict of twelve men, or should confess the same upon his, her, or their arraignment, or should not answer directly to the same according to the laws, or should wilfully or of malice stand mute, or should peremptorily challenge above the number of twenty jurors, or should be outlawed upon such indictment; and also all persons who should be accessory, before or after, the said facts, should receive judgment, and suffer the pains of death, without any allowance or benefit of the clergy, or of the said Act: And whereas the said Act has not been found effectual for the prevention of the crimes therein mentioned, and it is therefore expedient that so much of the said Act as is herein-before recited should be repealed: And whereas it might tend more effectually to prevent the crime of larceny from the person if every such offence, not being robbery, was rendered punishable more severely than simple larceny; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said Act as is herein-before recited shall, from and after the passing of this Act, be and the same is hereby repealed.

Part of recited Act repealed.

Privately stealing from the person of another to be punished with transportation or imprisonment.

II. And be it further enacted, That from and after the passing of this Act every person who shall at any time or in any place whatever in *Ireland*, feloniously steal, take, and carry away any money, goods, or chattels from the person of any other, whether privily, without his knowledge or not, but without such force or putting in fear as is sufficient to constitute the crime of robbery, or who shall be present, aiding and abetting therein, shall be liable to be transported beyond the seas for life, or for such term, not less than seven years, as the judge or court before whom any such person shall be convicted shall adjudge; or shall be liable, in case the said judge or court shall think fit, to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol, house of correction, or penitentiary house, for any term not exceeding three years.

[No. XXXVIII.] 59 George III. c. 101.—An Act to enlarge the Powers of an Act passed in the fifty-sixth Year of his present Majesty, relative to the Transportation of Offenders, to continue until the first Day of *May* one thousand eight hundred and twenty-one.—[12th *July* 1819.]

No. XXXVIII. 59 Geo. III. c. 101.

WHEREAS by several Acts of Parliament passed in the twenty-fourth, fifty-fifth, and fifty-sixth years of his present Majesty's reign, his Majesty hath been empowered, by and with the advice of his privy council, to declare and appoint places and parts beyond the seas to which felons and other offenders convicted before certain courts in *England* and *Wales*, and adjudged to be transported beyond the seas, shall be transported: And whereas by the said Act of the fifty-sixth year aforesaid, intituled *An Act to amend several Laws relative to the Transportation of Offenders, to continue in force until the first Day of* May *one thousand eight hundred and twenty-one*, certain provisions are now in force for regulating the mode of contracting for the transportation of such offenders, and for transporting them, and for their temporary confinement on board of ships and vessels in rivers, or within the limits of any port or harbour in *England* or *Wales*, and for the treatment of such offenders, and for their punishment in case of their being found at large, without lawful cause, before the expiration of the term for which they shall have been ordered to be transported: And whereas by the laws in force in some parts of his Majesty's dominions beyond *England* and *Wales*, offenders convicted of certain offences are liable to be punished by transportation beyond the seas, and other convicts adjudged to suffer death in such parts of his Majesty's dominions have received or may receive his Majesty's most gracious pardon upon condition of transportation beyond the seas, and there may be no means of transporting such convicts to any of the places appointed by his Majesty in council in that behalf, without first bringing them to *England*: And whereas such convicts

56 G. 3. c. 27.

No. XXXVIII. 59 Geo. III. c. 101.

do not fall within the provisions of the said recited Act of the fifty-sixth year aforesaid; and it is fit that further provision in respect thereto should be made; Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That whenever any convict adjudged to transportation by any court or judge in any part of his Majesty's dominions beyond *England* and *Wales*, or any convict adjudged to suffer death by any such court or judge, and pardoned on condition of transportation, have been or shall be brought to *England* in order to be transported, it shall and may be lawful to imprison any such offender in any place of confinement on board any ship or vessel provided under the authority of the said last-recited Act, until such convict shall be transported, or by the expiration of the term of his transportation, or otherwise, shall be entitled to his liberty; and that one of his Majesty's principal secretaries of state shall appoint some person to contract for the transportation of such convict, which person shall contract accordingly, in like manner as justices of the peace are directed in and by the said last-recited Act to contract for the transportation of offenders convicted within their respective jurisdictions; and that so soon as every such convict shall be imprisoned on board any such ship or vessel, all the provisions, rules, regulations, clauses, authorities, powers, penalties, matters and things contained in the said recited Act of the fifty-sixth year aforesaid, concerning the safe custody, confinement, treatment, and transportation of any offender convicted in *England* or *Wales*, and concerning the punishment of any such offender being found at large before the expiration of the term of his transportation, shall extend and be construed to extend to every convict who may have been or may be hereafter adjudged to transportation by any court or judge in any part of his Majesty's dominions beyond *England* and *Wales*, and to every convict adjudged by any such court or judge to suffer death, and pardoned on condition of transportation, and brought to *England* in order to be transported, as fully and effectually to all intents and purposes as if such convict had been convicted and sentenced at any session of gaol delivery holden for any county within *England*.

Convicts adjudged, by courts out of England, to transportation, and convicts pardoned on condition of transportation, may, when brought to England, be imprisoned on board of ships provided for the purpose, &c.

II. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to any conviction before any court or judge of those parts of the united kingdom called *Scotland* and *Ireland*.

Not to extend to convictions in Scotland and Ireland.

III. And be it further enacted, That this Act shall continue and be in force until the first day of *May* one thousand eight hundred and twenty-one, and no longer.

Continuance of Act.

[No. XXXIX.] 59 George III. c. 136.—An Act for the better Regulation of the General Penitentiary for Convicts at *Millbank*.—[13th *July* 1819.]

No. XXXIX. 59 Geo. III. c. 136. 56 G. 3. c. 63.

WHEREAS by an Act passed in the fifty-sixth year of the reign of his present Majesty, intituled, *An Act to regulate the General Penitentiary for Convicts at* Milbank, *in the County of* Middlesex, it was among other things enacted, that any number of convicts, not exceeding four hundred male and four hundred female convicts, might, with the approbation of his Majesty's principal secretary of state for the home department for the time being, be imprisoned at one and the same time in the said prison or penitentiary, and confined, employed, and managed therein under the provisions of that Act: And whereas it is found by experience that the number of male convicts who may be confined in the said penitentiary may conveniently be increased: And whereas it is also expedient that the provisions of the said Act should be in other respects altered, enlarged, and amended; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That any number of convicts, not exceeding six hundred male and four hundred female convicts, may, with the approbation of one of his Majesty's principal secretaries of state for the time being, be at one time imprisoned,

Any number not exceeding 600 male and

No. XXXIX. 59 Geo. III. c. 136.

confined, employed, and managed in the said penitentiary, under the provisions of this and the said recited Act.

400 female convicts may be confined in the penitentiary.

II. And be it further enacted, That all the powers, provisions, and regulations contained in the said recited Act, relating to any person under sentence or order of transportation for any offence committed in that part of the united kingdom called *England* and *Wales*, and confined in any gaol or prison, shall extend to any person under sentence or order of transportation for any offence committed within that part of the united kingdom called *Great Britain*, whether confined in any gaol or prison, or on board any ship or vessel provided pursuant to the provisions of a certain Act passed in the nineteenth year of his present Majesty's reign, intituled, *An Act to explain and amend the Laws relating to the Transportation, Imprisonment, and other Punishment of certain Offenders;* or of a certain Act passed in the twenty-fifth year of his said Majesty's reign, intituled, *An Act for the more effectual Transportation of Felons and other Offenders in that Part of* Great Britain *called* Scotland, *and to authorize the Removal of Prisoners in certain Cases.*

Powers of recited Act extended to convicts under Acts of 19 G. 3. c. 74. 25 G. 3. c. 46.

III. And be it further enacted, That all the powers, provisions, and regulations contained in the said recited Act of the fifty-sixth year aforesaid, relating to any sheriff or gaoler, shall extend to any superintendant or other commander of any such ship or vessel, or other person having the custody of any person or persons who may now or shall hereafter be confined on board any such ship or vessel as aforesaid.

Powers of recited Act relating to sheriffs or gaolers, extended to commanders of prison ships.

IV. And whereas it is by the said Act enacted, That it shall be lawful for the said committee from time to time, with such approbation as aforesaid, to increase, diminish, discontinue, or vary the number of officers and servants to be appointed for the said penitentiary, in pursuance of the directions aforesaid, except by taking away or discontinuing any of the offices of governor, matron, chaplain, and surgeon or apothecary to the same: And whereas the said provision hath been found inconvenient; Be it therefore enacted, that the said provision shall be and the same is hereby repealed.

Provisions of recited Act empowering committee to increase or diminish the number of officers and servants;

V. And whereas it is by the said Act enacted, that such convicts shall be employed in work at the said penitentiary every day in the year, except *Sundays, Christmas Day, Good Friday, Ascension Day*, and any day appointed for a general fast or thanksgiving, and also except such days when ill health will not allow of their working; and the hours of work in each day shall not exceed eight hours in the months of *November, December*, and *January*, nine hours in the months of *February* and *October* and ten and a half in the rest of the year, exclusive of the time allowed for meals; provided always, that it shall and may be lawful for the said committee, by a written order, to permit any convict to labour voluntarily for a longer time than is herein mentioned, upon such conditions as shall in the said order be expressed: And whereas the said provision hath been found inconvenient; Be it therefore enacted, that the said provision shall be and the same is hereby repealed.

and relating to the time that the convicts shall be kept to work;

VI. And whereas it is by the said Act enacted, That no officer or servant of such penitentiary shall supply any of the convicts therein with any money, clothing, provisions, or diet, or with any spirituous or other liquors whatsoever, except such money, clothing, provisions, or diet as the governor of the penitentiary shall from time to time permit or direct, and except such diet and liquors as the surgeon or apothecary attending such penitentiary shall think proper to order for any such convict in case of illness; and in case any such officer or servant shall be found guilty of carrying to any such convict, or of knowingly permitting to be carried to any such convict any money, clothing, provisions, or diet or liquors whatsoever, contrary to the intent of this Act, such officer or servant shall immediately be suspended by the said governor, who shall report the same to the committee at their next meeting; and such committee shall inquire thereof upon oath, and shall punish such officer or servant by forfeiture of office, and by any fine not exceeding ten pounds, or by either of such punishments, as the said committee shall in their discretion think proper; and if any person or persons shall wilfully supply any such convict at any time during the term of his or her confinement with any food, drink, or clothing, other than such as shall have been appointed by the committee as

also relating to supplying convicts with money, clothing, provisions, or spirits;

aforesaid, or with any money, he or she so supplying such convict shall for every such offence forfeit a sum not exceeding five pounds, nor less than forty shillings, at the discretion of the said committee: And whereas the said provision hath been found inconvenient; Be it therefore enacted, that the said provision shall be and the same is hereby repealed.

and also relating to the governor hearing complaints touching certain offences;

VII. And whereas it is by the said Act enacted, That the governor of such penitentiary shall have power to hear all complaints touching any of the following offences committed by any of the convicts confined therein; (that is to say), disobedience of any of the orders established for the said penitentiary; assaults by one person confined in such penitentiary upon another; when no dangerous wound or bruise is given; profane cursing and swearing or indecent behaviour; absence from chapel or irreverent behaviour there; and idleness or negligence in work or wilful mismanagement of it; or wanton damage or injury to the prison or furniture thereof; all which are declared to be offences by this Act; and the said governor may examine any persons touching such offences, and may determine thereupon, and may punish such offences by ordering the offender to close confinement in a dark cell, or by keeping him or her upon bread and water only, or by both such punishments, for any term not exceeding three days: And whereas the said provision hath been found inconvenient; Be it therefore enacted, that the said provision shall be and the same is hereby repealed.

and the further powers given to such governor to punish with more rigour offences of greater enormity;

VIII. And whereas it is by the said Act enacted, That if any convict who shall be confined in any such penitentiary shall, during the term for which he shall be so confined, be guilty of any offence which the governor of such penitentiary is not hereby authorized to punish, or for which the punishment which such governor is hereby authorized to inflict shall by such governor be deemed not sufficient, by reason of the enormity of the offence or the repetition thereof, such governor may confine such offender either in his or her own cell, or in a dark cell belonging to such penitentiary, till the next meeting of the said committee, and shall in such case report such offence, with the time and particular circumstances thereof, and the name of the offender, to the said committee; and such committee shall have power to inquire upon oath, and determine concerning all such offences so reported to them as aforesaid, and may order any such offender to be punished by close confinement in a dark cell, with bread and water only for sustenance, for any term not exceeding one month, or by removing such offenders if ranked in the second class into the first class, or by both such punishments: and in case of removal into the first class, the offender shall, from the time of making such order of removal, remain in such first class until he or she be restored to the second class by order of the committee, or until the term of his or her confinement shall be completed: And whereas the said provision has been found inconvenient; Be it therefore enacted, that the said provision shall be and the same is hereby repealed.

Provision as to the time of committee reporting bye-laws to his Majesty and to Parliament;

IX. And whereas it is by the said Act enacted, That the said committee shall report to his Majesty in council, and to both houses of Parliament, all bye-laws, rules, or regulations made under the authority of this Act, and all alterations therein or additions thereto, within thirty-one days after the commencement of the next session of Parliament after such bye-laws, rules, and regulations, or alterations or additions, shall have been confirmed by the justices of his Majesty's Court of King's Bench as hereinbefore is directed: And whereas the said provision has been found inconvenient; Be it therefore enacted, that the said provision shall be and the same is hereby repealed.

and as to the punishment to be inflicted on convicts for escaping from confinement; shall be repealed.

X. And whereas it is by the said Act enacted, that if any convict who shall be ordered to be confined in the said penitentiary shall at any time during the term of such confinement break prison, or escape from the place of his or her confinement, or in his or her conveyance to such place of confinement, or from the person or persons having the lawful custody of such convict, he or she so breaking prison or escaping shall be punished by an addition of three years to the term for which he or she, at the time of his or her breach of prison or escape, was subject to be confined; and if such convict so punished by such addition to the term of confinement, shall afterwards be convicted of a second escape or breach of prison, he or she shall be adjudged guilty of felony without benefit of clergy: And

No. XXXIX. 59 Geo. III. c. 136.

whereas the said provision has been found inconvenient; Be it therefore enacted, that the said provision shall be and the same is hereby repealed.

Officers and servants may be increased or diminished with consent of the secretary of state.

XI. And be it further enacted, That it shall be lawful for the committee appointed or to be appointed in pursuance of the said recited Act of the fifty-sixth year aforesaid, from time to time, with the approbation of his Majesty's principal secretary of state for the home department for the time being, to increase or diminish, discontinue or vary, the number of officers and servants to be appointed for the said penitentiary, in pursuance of the said Act, except by taking away or discontinuing any of the officers of governor, matron, chaplain, and surgeon or apothecary to the same, or to add such new officers and servants thereto as may be found necessary.

Regulating the days and hours of work of the convicts.

XII. And be it further enacted, That such convicts as shall be sent to the said penitentiary, shall be employed in work therein in every day in the year, except *Sundays, Christmas Day, Good Friday, Ascension Day,* and any day appointed for a general fast or thanksgiving; and also except such days when ill health will not allow of their working, or when the said committee shall think fit for any special reason to dispense with their working by an order in writing; and the hours of work in each day shall not exceed ten hours and a half exclusive of the time allowed for meals: Provided always, that it shall and may be lawful for the said committee, by a written order, to permit any convict to labour voluntarily for a longer time than is herein mentioned, upon such conditions as in the said order shall be expressed.

No officer or servant of the penitentiary, or any person whatever, to supply the convicts with any thing whatever, except as the governor shall direct.

Penalty.

XIII. And be it further enacted, That no officer or servant of the said penitentiary, nor any other person whatsoever, shall supply or bring into any of the convicts therein any money, clothing, provisions, diet, or other article or thing whatsoever, or any spirituous or other liquors whatsoever, except such money, clothing, provisions, diet, article, or thing, as the governor of the penitentiary shall from time to time permit or direct, and except such diet and liquors as the surgeon or apothecary attending the penitentiary shall think proper to order for any such convict in case of illness; and that no officer or servant of such penitentiary, nor any other person whatsoever, shall clandestinely, or otherwise than according to the rules and regulations of such penitentiary, bring in to or carry out from any convict, or receive for the purpose of bringing in to or carrying out from any convict, any letter or paper; and in case any person shall be found supplying or bringing in to any such convict any money, clothing, provisions, diet, or other article or thing whatsoever, or any liquors whatsoever, or of bringing in to or carrying out from any convict, or receive for the purpose of bringing in to or carrying out from any convict, any letter or paper whatsoever, contrary to the intent of this Act, if such person be an officer or servant of such penitentiary, he or she shall immediately be suspended by the said governor, who shall report the same to the committee at their next meeting, and such committee shall enquire thereof upon oath, and shall punish such officer or servant by forfeiture of office, and if it shall seem meet to them, shall cause such officer or servant to be prosecuted for his or her offence, before a justice of the peace, who, upon conviction, may forthwith punish such officer or servant by a fine, not exceeding ten pounds; and if such person be not an officer or servant of such penitentiary, he or she shall for every such offence forfeit a sum not exceeding five pounds nor less than forty shillings, at the discretion of the justice before whom he or she shall be prosecuted and convicted.

Governor empowered to hear complaints, and to punish offences.

XIV. And be it further enacted, That the governor of such penitentiary shall have power to hear all complaints touching any of the following offences committed by any of the convicts confined therein; (that is to say), disobedience of any of the orders established for the said penitentiary; assaults by one person confined in such penitentiary upon another, where no dangerous wound or bruise is given; profane cursing and swearing, or indecent behaviour; absence from chapel or irreverent behaviour there, and idleness or negligence in work or wilful mismanagement of it, or wanton damage or injury to the prison or furniture thereof; all which are declared to be offences by this Act; and the said governor may examine any persons touching such offences, and may determine thereupon, and may punish such

offences by ordering the offender to close confinement in a dark cell, or by keeping him or her upon bread and water only, or by both such punishments, for any term not exceeding fourteen days; Provided always, that no such punishment shall exceed the space of three days, unless before the expiration of that period the approbation in writing of the visitor for the time being shall be had and obtained.

Governor may confine convicts for offences of greater enormity.

XV. And be it further enacted, That if any convict, who shall be confined in the said penitentiary, shall, during the term for which he or she shall be so confined, be guilty of any offence which the governor of such penitentiary is not hereby authorized to punish, or for which the punishment which such governor is hereby authorized to inflict shall by such governor be deemed not sufficient, by reason of the enormity of the offence or the repetition thereof, such governor may confine such offender either in his or her own cell, or in a dark cell belonging to such penitentiary, till the next meeting of the said committee; and shall in such case report such offence, with the time and particular circumstances thereof, and the name of the offender, to the said committee; and such committee shall have power to determine concerning all such offences so reported to them as aforesaid; and for that purpose (if they shall think fit) to examine any person upon oath, and may order any such offender to be punished by close confinement in a dark cell with bread and water only, for any term not exceeding one month, or by removing such offender, if ranked in the second class, into the first class, or by both such punishments; and in case of removal into the first class, the offender shall, from the time of making such order of removal, remain in such first class until he or she shall be restored to the second class by order of the committee, or until the term of his or her confinement shall be completed; and in case it shall appear to the said committee that the punishment inflicted upon any offender by the said governor, with or without the approbation of the visitor, is insufficient, the said committee shall have power to extend such punishment to any term not exceeding one month from its first commencement, and may further order the removal of the said offender into the first class, in the same manner as if the said offender had been originally reported for punishment to the said committee.

Committee to report to his Majesty in council, and to both houses of Parliament, all bye-laws, &c.

XVI. And be it further enacted, That the said committee shall report to his Majesty in council, and to both houses of Parliament, all bye-laws, rules, and regulations made under the authority of the said recited Act of the fifty-sixth year aforesaid, and all alterations therein or additions thereto, within six weeks after the commencement of the next session of Parliament after such bye-laws, rules, and regulations, or alterations or additions, shall have been confirmed by the justices of his Majesty's Court of King's Bench, as in the said recited Act of the fifty-sixth year of his said Majesty is directed.

Punishment of convicts breaking prison, &c.

XVII. And be it further enacted, That if any convict who shall be ordered to be confined in the said penitentiary, shall at any time during the term of such confinement break prison, or escape from the place of his or her confinement, or in his or her conveyance to such place of confinement, or from the person or persons having the lawful custody of such convict, he or she so breaking prison or escaping, shall be punished by an addition, not exceeding three years, to the term for which he or she at the time of his or her breach of prison or escape was subject to be confined; and if such convict so punished by such addition to the term of confinement, shall afterwards be convicted of a second escape or breach of prison, he or she shall be adjudged guilty of felony without benefit of clergy; and if any convict who shall be ordered to be confined in the said penitentiary, shall at any time during the term of such confinement, attempt to break prison or escape from the place of his or her confinement, or shall forcibly break out of his or her cell, or shall make any breach therein with intent to escape therefrom, he or she so offending, being convicted thereof, shall be punished by an addition not exceeding six calendar months to the term for which he or she at the time of committing any such offence was subject to be confined.

Committee empowered

XVIII. And be it further enacted, That it shall be lawful for the said com-

No. XXXIX. 59 Geo. III. c. 136.

to reward meritorious convicts on their discharge.

mittee to pay to any person, who, having been imprisoned in such penitentiary, and discharged from thence either by his Majesty's most gracious pardon, or at the termination of his or her period of confinement, shall produce to the said committee, at the expiration of one year after such discharge, such evidence of his or her good conduct during that time as shall be satisfactory to the said committee, any sums of money not exceeding three pounds, in addition to such money and clothing as shall have been given to such person on his or her discharge.

Punishment of persons taking false oaths under this Act.

XIX. And it is hereby further enacted, That if any person taking an oath under the provisions of this Act shall wilfully forswear and perjure himself or herself in any such oath, and shall be lawfully convicted thereof, he or she so offending shall suffer such punishment as by law may be inflicted on persons convicted of wilful and corrupt perjury.

Powers of former Act to continue in force.

XX. And be it further enacted, That all the powers, provisions, and regulations contained in the said Act of the fifty-sixth year aforesaid, and not hereby altered or repealed, shall continue in force, and shall extend and be applied to this Act, in as full and ample manner as if the same had been hereby re-enacted.

[No. XL.] 1 Geo. IV. c. 117.—An Act to repeal so much of an Act passed in the tenth and eleventh Years of King *William* the Third, intituled *An Act for the better apprehending, prosecuting, and punishing of Felons that commit Burglary, Housebreaking, or Robbery, in Shops, Warehouses, Coach-houses, or Stables, or that steal Horses*, as takes away the Benefit of Clergy from Persons privately stealing in any Shop, Warehouse, Coach-house, or Stable, any Goods, Wares, or Merchandizes of the Value of five Shillings; and for more effectually preventing the Crime of stealing privately in Shops, Warehouses, Coach-houses or Stables. [25th *July* 1820.]

No. XL. 1 Geo. IV. c. 117.

10 & 11 W. 3. c. 23.

WHEREAS by an Act passed in the tenth and eleventh years of the reign of King *William* the third, intituled *An Act for the better apprehending, prosecuting, and punishing of Felons that commit Burglary, Housebreaking, or Robbery, in Shops, Warehouses, Coach-houses, or Stables, or that steal Horses*, it is amongst other things enacted, That all and every person and persons that shall at any time or times, by night or in the day-time, from and after the twentieth day of *May* in the year one thousand six hundred and ninety-nine, in any shop, warehouse, coach-house, or stable, privately and feloniously steal any goods, wares, or merchandizes, being of the value of five shillings or more, although such shop, warehouse, coach-house, or stable be not actually broke open by such offender or offenders, and although the owners of such goods, or any other person or persons be or be not in such shop, warehouse, coach-house, or stable to be put in fear, or shall assist, hire, or command any person or persons to commit such offence, being thereof convicted or attainted by verdict or confession, or being indicted thereof shall stand mute or will not directly answer to the indictment, or shall peremptorily challenge above the number of three and twenty persons returned to be of the jury, shall be absolutely debarred and excluded of and from the benefit of clergy: And whereas the said Act has not been found effectual for the prevention of the crimes therein mentioned; and it is therefore expedient that so much of the said Act as is hereinbefore recited should be repealed: And whereas it might tend more effectually to prevent the crime of larceny in shops, warehouses, coach-houses, and stables, if every such offence were punishable more severely than simple larceny: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said Act as is herein-before re-

So much of recited Act as takes away the benefit of clergy from persons privately stealing in any shop, &c. goods of the value of 5s. repealed.

No. XL. 1 Geo. IV. c. 117.

cited shall, from and after the passing of this Act, be and the same is hereby repealed, as to privately and feloniously stealing any goods, wares, or merchandizes under the value of fifteen pounds.

Persons privately stealing Goods of the value of 5*s.* and under 15*l.* liable to be transported, &c.

II. And be it further enacted, That from and after the passing of this Act, every person who shall privately and feloniously steal any goods, wares, or merchandizes, of the value of five shillings or more, being under the value of fifteen pounds, in any shop, warehouse, coach-house, or stable, or who shall aid or assist any person to commit such offence, shall be liable to be transported beyond the seas for life, or for such term, not less than seven years, as the court before which any such person shall be convicted shall adjudge; or shall be liable, in case the said court shall think fit, to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol, house of correction, or penitentiary house, for any term not exceeding seven years.

[No. XLI.] 1 and 2 George IV. c. 6.—An Act to continue for two Years from the passing thereof, to the End of the then next Session of Parliament, the several Acts for the Transportation of Offenders from *Great Britain*.—[24th *March* 1821.]

No. XLI. 1 & 2 G. IV. c. 6.

WHEREAS an Act was passed in the fifty-sixth year of the reign of his late Majesty King *George* the Third, intituled *An Act to amend several Laws relative to the Transportation of Offenders, to continue in force until the first day of* May, *one thousand eight hundred and twenty-one*, whereby divers provisions were made for the transportation of offenders from *England* and *Wales*: And whereas an Act was passed in the twenty-fifth year of his said late Majesty's reign, intituled *An Act for the more effectual Transportation of Felons and other Offenders in that Part of* Great Britain *called* Scotland, *and to authorize the Removal of Prisoners in certain Cases*, certain parts of which Act were by the first recited Act continued in force until the same first day of *May*: And whereas an Act for enlarging the powers of the said first recited Act was passed in the fifty-ninth year of his said late Majesty's reign, to continue in force until the same first day of *May*; and it is expedient further to continue the said Acts, and also so much of an Act passed in the twenty-eighth year of his said late Majesty's reign, intituled *An Act to continue several Laws relating to the granting a Bounty on the Exportation of certain Species of* British *and* Irish *Linens exported, and taking off the Duties on the Importation of Foreign raw Linen Yarns made of Flax, and to the preventing the committing of Frauds by Bankrupts, and for continuing and amending several Laws relating to the Imprisonment and Transportation of Offenders*; as relates to his Majesty's authorizing persons to make contracts for the transportation of offenders, and directing security to be given in that behalf; and an Act passed in the forty-third year of his said late Majesty's reign, intituled *An Act to facilitate and render more easy the Transportation of Offenders*, for the further term herein-after mentioned: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the said Acts of the fifty-sixth, fifty ninth, and forty-third years of his said late Majesty's reign, and so much of the said Act of the twenty-fifth year of the same reign, as relates to the transportation of offenders from *Scotland*, and to their removal to temporary places of confinement, and so much of the said Act of the twenty-eighth year of the same reign as relates to his Majesty authorizing persons to make contracts for the transportation of offenders, and directing security to be given in that behalf, shall be and the same are hereby continued in force for two years from the passing of this Act, to the end of the then next session of Parliament.

56 G. 3. c. 27.

25 G. 3. c. 40.

59 G. 3. c. 101.

28 G. 3. c. 24.

43 G. 3. c. 15.

Recited Acts (so far as respects Transportation of Offenders) further continued.

No. XLII.
4 Geo. IV. c. 47.

[No. XLII.] 4 George IV. c. 47.—An Act for authorizing the Employment at Labour, in the Colonies of Male Convicts under Sentence of Transportation.—[4th *July* 1828.]

56 G. 3. c. 27.

WHEREAS an Act was passed in the fifty-sixth year of the reign of his late Majesty King *George* the Third, intituled *An Act to amend several Laws relative to the Transportation of Offenders, to continue in force until the First Day of* May, *One thousand eight hundred and twenty-one*, which was, by an Act passed in the first and second years of his present Majesty's reign, continued for two years and to the end of the then next session: And whereas by the said first recited Act it was among other things enacted that it should be lawful for his Majesty, from time to time by an order in writing, to be notified by one of his principal secretaries of state, to direct the removal of any male offenders who should be under sentence of death, but reprieved during his Majesty's pleasure, or under sentence or order of transportation, and who, having been examined by an experienced surgeon or apothecary, should appear to be free from any putrid or infectious distemper, and fit to be removed from the gaol or prison in which such offenders should be confined to such place of confinement, within *England* or *Wales*, either at land, or on board any ship or vessel to be provided by his Majesty in the river *Thames*, or any navigable or other river, or within the limits of any port or harbour of *England* or *Wales*, as his Majesty should from time to time appoint, under the management of a superintendant and overseer, to be appointed by his Majesty; and that every offender who should be so removed, should continue in the said place of confinement, or be removed to and confined in any other such place or places as aforesaid, as his Majesty should from time to time appoint, until such offender should be transported according to law, or by the expiration of the term of such transportation or otherwise, should be entitled to his liberty, or until his Majesty should direct the return of such offender to the gaol or prison from which he should have been so removed; and it was further enacted, that the superintendant or overseer who should have the custody of every such offender, should, during the term of such custody, have the same powers over him as are incident to the office of a sheriff or gaoler, and in like manner be answerable for any escape of such offender; and also during such custody should see him fed and clothed, according to a scale of diet and clothing to be fixed on, and notified in writing by one of his Majesty's principal secretaries of state to the superintendant, and should keep such offender to labour, at such places and under such regulations, directions, limitations and restrictions, as his Majesty should from time to time, by any order, to be directed to such superintendant or overseer for their instruction, appoint: And whereas by an Act passed in the twenty-fifth year of the reign of his said late Majesty, similar provisions were made with respect to male offenders convicted in *Scotland*, which were by the said secondly recited Act continued for the same term: And whereas under the provisions of the said Acts, many male convicts have been confined on board ships or vessels provided by his Majesty, in the river *Thames* and within the limits of certain ports or harbours of *England*, and have been kept to labour in some of his Majesty's dock yards, and on other public works of great utility and importance; wherefrom there have resulted not only great advantage to the public, but also considerable reformation of many of the offenders so kept to labour: And whereas public works of a similar kind are and may hereafter be undertaken in other parts of his Majesty's dominions out of *England*, on which it may be expedient to employ male offenders convicted in *Great Britain*, being under sentence or order of transportation, in the same manner as male offenders are employed in *England* under the said recited Acts: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful for

His Majesty, by Order in Council, may direct Convicts to be employed in any Part of His Majesty's Dominions out of England, under the Management of a Superintendant and Overseer.

No. XLII. 4 Geo. IV. c. 47.

his Majesty, by any order or orders in council, to declare his royal will and pleasure, that male offenders convicted in *Great Britain*, and being under sentence or order of transportation, shall be kept to labour in any part of his Majesty's dominions out of *England*, to be named in such order or orders in council; and that whenever his Majesty's will and pleasure shall be so declared in council, it shall be lawful for his Majesty, by an order in writing to be notified by one of his Majesty's principal secretaries of state, to direct the removal and confinement of any such male offender, either at land or on board any ship or vessel to be provided by his Majesty, within the limits of any port or harbour in that part of his Majesty's dominions which shall be named in such order in council, under the management of the superintendant now being or hereafter to be appointed in *England*, and of an overseer to be appointed by his Majesty for each ship or vessel or other place of confinement to be provided under this Act; and that every offender who shall be so removed, shall continue on board the ship or vessel or other place of confinement to be so provided, or any similar ship or vessel or other place of confinement to be from time to time provided by his Majesty, until his Majesty shall otherwise direct, or until the offender shall be entitled to his liberty.

Overseer's Powers.

II. And be it further enacted, That the overseer to be appointed under this Act shall possess the same powers and authorities, and shall perform the same duties, and shall be liable to the same controul, as any overseer appointed under the said first recited Act; provided, that the oath thereby required to be by him taken, for verifying the returns of prisoners, shall be taken before a judge or justice of peace of the colony in which the overseer shall be resident; and that the superintendant shall make the same reports and returns respecting every such offender, as respecting offenders confined under the said first recited Act; and that every such offender as aforesaid, confined under the authority of this Act, shall be liable to the same penalties and punishments, for any crime or misconduct by him committed, whether on board such ship or vessel, or other place of confinement to be provided under the authority of this Act, or on board any ship or vessel in which he shall be conveyed from *England*, to the part of his Majesty's dominions specified in any order in council to be made under the authority of this Act, and for escaping from on board any of such ships or vessels, or other place of confinement, and being at large; and every person rescuing, or attempting to rescue, or assisting in rescuing any such offender confined under the authority of this Act, shall be liable to the same punishment as if such offender had been confined under the said first recited Act.

Superintendant to report.

Offender to be liable to same Penalties as under former Act.

General Issue.

III. And be it further enacted, That if any suit or action shall be prosecuted against any person for any thing done in pursuance of this Act, such person may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done by the authority of this Act; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue his action, after issue joined, or if, upon a demurrer or otherwise, judgment shall be given against the plaintiff or plaintiffs, the defendant shall recover treble costs, and have the like remedy for the same as any defendants have by law in other cases; and notwithstanding a verdict shall be given to any plaintiff in such action or suit as aforesaid, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be, shall certify his approbation of the verdict.

Treble Costs.

Limitation of Actions.

III. And be it further enacted, That all actions suits and prosecutions to be commenced against any person or persons, for any thing done in pursuance of this Act, shall be laid and tried in the place where the fact was committed, or if committed on the seas, then in the county of *Middlesex*; and shall be commenced within six calendar months after the fact committed, and not otherwise.

Continuance of Act.

V. And be it further enacted, That this Act shall continue and be in force during the continuance of the said recited Act of the fifty-sixth year of his late Majesty's reign, and no longer.

No. XLIII.
5 Geo. IV.
c. 84.

[No. XLIII.] 5 George IV. c. 84.—An Act for the Transportation of offenders from *Great Britain*.—[21st *June* 1824.]

WHEREAS the several laws in force for regulating the transportation of offenders from *Great Britain* will expire at the end of the present session of Parliament; and it is expedient that the laws relative to that subject should be revised and consolidated into one Act: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That this Act shall take effect on the last day of this present session of Parliament; and that on and from that day, all things remaining to be done, touching the punishment, imprisonment, correction, removal, transportation, discipline, employment, diet and clothing of persons sentenced or ordered to transportation or banishment from any part of *Great Britain*, under any Acts heretofore or now in force, or pardoned on condition of being transported under any such Acts, shall be continued done and completed under the provisions of this Act; and that all sentences and orders for transportation, all orders in council, and other orders, warrants, instructions, directions, appointments, authorities, contracts, and securities, made, issued, or given under any of the said Acts, and in force at the time of the commencement of this Act, shall continue in force under and by virtue of this Act, unless and until they shall be revoked or superseded.

Commencement of Act, under the Provisions of which all Persons already sentenced or ordered for Transportation shall be placed.

II. And be it further enacted, That from and after the commencement of this Act, every person convicted before any court of competent jurisdiction in *Great Britain*, of an offence for which he or she shall be liable to be transported or banished, shall be adjudged and ordered to be transported or banished beyond the seas, for the term of life or years for which such offender shall be liable by any law to be transported or banished, and every sentence of transportation or banishment passed or to be passed on any offender in any court of competent jurisdiction in *Great Britain*, and every order for transportation or banishment made or to be made in pursuance of the sentence of any such court or other competent authority, shall subject the offender to be conveyed beyond the seas under the provisions of this Act; and whenever his Majesty shall be pleased to extend mercy to any offender convicted of any crime for which he or she is or shall be excluded from the benefit of clergy, upon condition of transportation beyond the seas, either for the term of life, or any number of years, and such intention of mercy shall be signified by one of his Majesty's principal secretaries of state to the court before which such offender hath been or shall be convicted, or any subsequent court with the like authority, such court shall allow to such offender the benefit of a conditional pardon, and make an order for the immediate transportation of such offender; and in case such intention of mercy shall be so signified to the judge or justice before whom such offender hath been or shall be convicted, or to any judge of his Majesty's Court of King's Bench or Common Pleas, or to any baron of the exchequer of the degree of the coif in *England*, such judge justice or baron shall allow to such offender the benefit of a conditional pardon, and make an order for the immediate transportation of such offender, in the same manner as if such intention of mercy had been signified to the court during the term or session in or at which such offender was convicted; and such allowance and order shall be considered as an allowance and order made by the court before which such offender was convicted, and shall be entered on the records of the same court by the proper officer thereof, and shall be as effectual to all intents and purposes, and have the same consequences as if such allowance and order had been made by the same court during the continuance thereof; and every such order, and also every order made by the Court of Justiciary in *Scotland* for the transportation of any offender whose sentence of death shall be remitted by his Majesty, shall subject the offender to be conveyed beyond the seas under the provisions of this Act.

Offenders adjudged for Transportation to be transported under this Act.

Power for subsequent Court, &c., to allow conditional Pardon in Cases where His Majesty extends Mercy to the Offender.

III. And be it further enacted, That it shall be lawful for his Majesty, by and with the advice of his privy council, from time to time, to appoint any place or places beyond the seas, either within or without his Majesty's dominions, to which felons and other offenders under sentence or order of transportation or banishment shall be conveyed; and that when any offenders shall be about to be transported or banished from *Great Britain*, one of his Majesty's principal secretaries of state shall give orders for their removal to the ship to be employed for their transportation, and shall authorize and empower some person to make a contract for their effectual transportation to some of the places so appointed, and shall direct security to be given for their effectual transportation, in the manner hereinafter mentioned.

His Majesty may appoint Places of Transportation.

Secretary of State to authorize Persons to make Contracts for the Transportation of Offenders, &c.

IV. And be it further enacted, That the sheriff or gaoler receiving such order of removal shall by virtue thereof forthwith remove every offender to whom the same shall apply, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be transported to the ship employed for his or her transportation, and there deliver every such offender to the contractor, together with a true copy, attested by such sheriff or gaoler of the caption and order of the court by which each such offender was sentenced or ordered for transportation containing the sentence or order of transportation of each such offender, by virtue whereof he or she shall be in the custody of such sheriff or gaoler; and also a certificate specifying concisely the description of his or her crime, his or her age, whether married or unmarried, his or her trade or profession, and an account of his or her behaviour in prison before and after trial, and the gaoler's observations on his or her temper and disposition, and such information concerning his or her connexions and former course of life as may have come to the gaoler's knowledge; and such contractor shall give a receipt in writing to the sheriff or gaoler, for the discharge of such sheriff or gaoler.

Sheriffs or Gaolers, on receiving Orders for Removal of Offenders for Transportation, to delive them over to the Contractor if free from Distemper.

V. And be it further enacted, That every such contractor, with two sureties, shall, before any such offender shall be delivered to him to be transported, give security by bond to his Majesty, that he will effectually transport or cause to be transported, every offender included in his contract, to such place beyond the seas as shall be specified in the contract, and procure from the governor of the colony, or other person or persons to whom he shall be directed by one of the principal secretaries of state, to deliver such offender, a certificate of the landing of such offender in that place, where he or she shall be ordered to be transported (death and casualties by sea excepted); and that such offender shall not be suffered to return to any part of the United Kingdom, by the wilful default of such contractor, or of any person employed by him.

Persons undertaking to transport Offenders to give proper Security.

VI. And be it further enacted, That if any such offender shall be guilty of misbehaviour or disorderly conduct on board of the ship in which he or she shall be transported, it shall be lawful for the surgeon or principal medical officer for the time being of such ship, to inflict or cause to be inflicted on such misbehaving or disorderly offender, such moderate punishment or correction as may be authorized by the instructions which he may receive from one of his Majesty's principal secretaries of state: Provided always, that no such punishment or correction shall be so inflicted, unless the master or principal officer for the time being of such ship shall first signify his approbation thereof in writing under his hand; and every such punishment or correction, together with the particulars of the offence for which the same is inflicted, and such written approbation as aforesaid, shall on the same day, in all cases, be entered by such master or principal officer as aforesaid, upon the log-book of the ship, under a penalty of twenty pounds for every neglect to make such entry, to be recovered to the use of the informer, by bill, plaint, or information, in any Court of Record in *England*, or in one of the supreme courts of *New South Wales*, or *Van Dieman's Land*.

For Punishment of Transports misbehaving on the Voyage.

VII. Provided always, and be it further enacted, That whenever the transportation of any such offenders shall take place in any ship belonging

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to his Majesty, it shall be lawful for one of the principal secretaries of state, by warrant under his hand, to nominate some person or persons who shall have the custody of such offender during the voyage, and thereupon such offender may be delivered to such nominee or nominees, without any contract or security being required or given for the effectual transportation of such offender; and every such nominee shall have the like power of punishing misbehaviour and disorderly conduct in such offender during the voyage, as is hereby given to the surgeon of a ship specially employed for the transportation of offenders.

Secretary of State may give the Custody of Offenders transported in King's Ships, without Security being given for their Transportation.

VIII. And be it further enacted, That so soon as any such offender shall be delivered to the governor of the colony, or other person or persons to whom the contractor, or such nominee or nominees as aforesaid, shall be so directed to deliver him or her, the property in the service of such offender shall be vested in the governor of the colony for the time being, or in such other person or persons; and it shall be lawful for the governor for the time being, and for such other person or persons whenever he or they shall think fit, to assign any such offender to any other person for the then residue of his or her term of transportation, and for such assignee to assign over such offender, and so as often as may be thought fit; and the property in the service of such offender shall continue in the governor for the time being, or in such other person or persons as aforesaid, or his or their assigns, during the whole remaining term of life or years for which such offender was sentenced or ordered to be transported: Provided always, that for the purposes of this Act, every person administering the government of a colony, by whatever name or title he may be denominated, shall deemed to be the governor thereof.

Governor of the Colony, &c., to have Property in Service of Offender.

Not to interfere with King's Prerogative.

IX. Provided always, and be it further enacted, That nothing in this Act contained shall in any manner effect his Majesty's royal prerogative of mercy.

His Majesty to appoint Places of Confinement of Offenders in England.

X. And be it further enacted, That it shall be lawful for his Majesty from time to time, by warrant under his royal sign manual, to appoint places of confinement within *England* or *Wales*, either at land, or on board vessels to be provided by his Majesty in the river *Thames*, or some other river, or within the limits of some port or harbour of *England* or *Wales*, for the confinement of male offenders under sentence or order of transportation, which shall be under the management of a superintendant and overseer to be appointed by his Majesty; and that it shall be lawful for one of his Majesty's principal secretaries of state to direct the removal of any male offender who shall be under sentence of death, but who shall be reprieved, or whose sentence shall be respited during his Majesty's pleasure, or who shall be under sentence or order of transportation, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be removed from the gaol or prison in which such offender shall be confined, to any of the places of confinement so appointed; and every offender who shall be so removed shall continue in the said place of confinement, or be removed to and confined in some other such place or places as aforesaid, as one of his Majesty's principal secretaries of state shall from time to time direct, until such offender shall be transported according to law, or shall become entitled to his liberty, or until one of his Majesty's principal secretaries of state shall direct the return of such offender to the gaol or prison from which he shall have been removed; and the sheriff or gaoler having the custody of any offender whose removal shall be ordered in manner aforesaid, shall, with all convenient speed, after the receipt of any such order, convey or cause to be conveyed every such offender to the place appointed, and there deliver him to such superintendant or overseer, together with a true copy, attested by such sheriff or gaoler, of the caption and order of the court by which such offender was sentenced or ordered for transportation, containing the sentence or order of transportation of each such offender, by virtue whereof he shall be in the custody of such sheriff or gaoler; and also a certificate, specifying the description of his crime, his age, whether married or unmarried, his trade or profession, and an account of his behaviour in prison before and after this trial, and

the gaoler's observations on his temper and disposition, and such information concerning his connexions and former course of life as may have come to the gaoler's knowledge; and such superintendant or overseer shall give a receipt in writing to the sheriff or gaoler, for the discharge of such sheriff or gaoler.

Appointment of Superintendant of such Places of Confinement, &c.

XI. And be it further enacted, That it shall be lawful for his Majesty to appoint one fit and able person to be superintendant of the said places of confinement; and in case it shall be deemed expedient, it shall be lawful for his Majesty also to appoint one fit and able person to be assistant or deputy to such superintendant, at one or more of the said places of confinement, and to be constantly resident at or near the place or places to which he shall be appointed; and also one fit and able person to be overseer of each such place of confinement, who with a sufficient number of officers and guards shall constantly reside therein; and such superintendant shall personally visit and inspect such places of confinement four times in every year, or oftener if occasion shall require, and shall distinctly examine into the state of such places of confinement, the behaviour and conduct of the respective assistants or deputies, overseers officers and guards, the treatment and condition of the prisoners, and the amount of the several earnings, and the expences attending every such place of confinement, and shall, at least twice in every year, make a faithful report of the same to one of his Majesty's principal secretaries of state, who shall cause such report to be laid before both Houses of Parliament at the beginning of every session; and such superintendant shall distinguish in such report the amount of the earnings and expences at each of such places of confinement, and shall state the average number of prisoners confined therein, and the number of days' labour done by such prisoners, distinguishing the work of artificers, and of any other superior labourers, from that of common labourers; and such superintendant shall also, in matters of extreme necessity, make a special report thereof to one of his Majesty's principal secretaries of state, who may and is hereby authorized to afford such redress or provide such regulations as he shall deem proper; and such superintendant, assistants or deputies, and overseers, shall continue in office during his Majesty's pleasure, and shall receive such salaries as one of his Majesty's principal secretaries of state shall appoint; and such superintendant shall be paid such travelling and other reasonable expences as shall be incurred by him in discharge of his duty.

For cleansing and purifying and clothing Offenders.

XII. And be it further enacted, That when any offender shall be brought to any such place of confinement as aforesaid, in pursuance of the powers of this Act, he shall be washed cleansed and purified, and the clothes in which he shall be then clothed shall be burnt, if necessary, or otherwise shall be preserved and taken care of for him by the overseer, and re-delivered to him upon his quitting it, or sold for his benefit, and the produce thereof accounted for to him by the overseer; and when such offender shall be finally discharged, such other decent clothing, as shall be judged necessary and proper by the superintendant, shall be delivered to such offender by the overseer, and also such sum of money for his immediate subsistence as the superintendant shall think proper, so as such sum shall not in any case exceed three pounds.

His Majesty by Order in Council, may direct Convicts to be employed in any Part of His Majesty's Dominions out of England, under the Management of the Superintendant and Overseer.

XIII. And be it further enacted, That it shall be lawful for his Majesty, by any order or orders in council, to declare his royal will and pleasure that male offenders convicted in *Great Britain*, and being under sentence or order of transportation, shall be kept to labour in any part of his Majesty's dominions out of *England*, to be named in such order or orders in council; and that whenever his Majesty's will and pleasure shall be so declared in council, it shall be lawful for one of his Majesty's principal secretaries of state to direct the removal and confinement of any such male offender, either at land or on board any vessel to be provided by his Majesty within the limits of any port or harbour in that part of his Majesty's dominions which shall be named in such order in council, under the management of the said superintendant, and of an overseer to be appointed by his Majesty for each such vessel or other place of confinement; and that every offender who shall be so removed shall continue on board

the vessel or other place of confinement to be so provided, or any similar vessel or other place of confinement to be from time to time provided by his Majesty, until his Majesty shall otherwise direct, or until the offender shall be entitled to his liberty.

Superintendant to make Returns of Prisoners to the Secretary of State, on the 1st of January, April, July, and October, yearly.

XIV. And be it further enacted, That the said superintendant shall from time to time make returns, specifying the name of every person in custody in each of such places of confinement, the offence of which he shall have been guilty, the court before which he shall have been convicted, and the sentence of such court, together with his age and bodily state, and his behaviour whilst in custody; and also the names of such offenders as shall have died whilst in such custody, or shall have escaped, or have been lawfully discharged from the same; which returns shall be made, on the first day of *January*, *April*, *July*, and *October*, in every year, to one of his Majesty's principal secretaries of state, on the oath of the overseer of each place of confinement, such oath to be made before a justice of the peace.

Power and Duties of Superintendant and Overseers.

XV. And be it further enacted, That after the removal of any offender under this Act, the superintendant and overseer who shall have the custody of him, shall, during the term of such custody, have the same powers over him as are incident to the office of a sheriff or gaoler, and shall in like manner be answerable for any escape of such offender; and if any offender shall during such custody be guilty of any misbehaviour or disorderly conduct, the superintendant or overseer shall be authorized to inflict, or cause to be inflicted on him, such moderate punishment or correction as shall be allowed by one of his Majesty's principal secretaries of state; and such superintendant or overseer shall also, during such custody, see every offender fed and clothed according to a scale of diet and clothing to be fixed on, and notified in writing by one of his Majesty's principal secretaries of state to the superintendant; and shall keep such offender to labour at such places, and under such regulations, directions, limitations, and restrictions, as by such secretary of state shall from time to time be prescribed; and in case of the absence of any such superintendant or overseer, or of the vacancy of his office, his duties or powers shall be discharged and exercised in all respects by the officer or person on whom the command of the place of confinement shall devolve.

Superintendant to act as a Justice of the Peace.

XVI. And be it further enacted, That it shall be lawful for such superintendant, and he is hereby authorized, in every such place of confinement as aforesaid, either at land or on board any vessel to be provided as aforesaid, and also in every place wherein any offenders under his superintendance shall be employed to labour, to act in every respect as a justice of the peace, as if he had been named in the commission of the peace, and had been duly qualified to act as a justice of the peace for the county or place in which any such place of confinement shall be, or any such offender shall be employed to labour.

Convicts adjudged by Courts out of the United Kingdom to Transportation, and Convicts pardoned on Condition of Transportation, may, when brought to England, be imprisoned and transported.

XVII. And whereas by the laws in force in some parts of his Majesty's dominions not within the United Kingdom, offenders convicted of certain offences are liable to be punished by transportation beyond the seas, and other convicts adjudged to suffer death in such parts of his Majesty's dominions have received or may receive his Majesty's most gracious pardon upon condition of transportation beyond the seas, and there may be no means of transporting such convicts to any of the places appointed by his Majesty in council in that behalf, without first bringing them to *England;* be it therefore further enacted, That whenever any convict adjudged to transportation by any court or judge in any part of his Majesty's dominions not within the United Kingdom, or any convict adjudged to suffer death by any such court or judge, and pardoned on condition of transportation, have been or shall be brought to *England* in order to be transported, it shall and may be lawful to imprison any such offender in any place of confinement provided under the authority of this Act, until such convict shall be transported, or shall become entitled to his liberty; and that so soon as every such convict shall be so imprisoned, all the provisions, rules, regulations, clauses, authorities, powers, penalties, matters, and things aforesaid, concerning the safe custody, confinement, treatment, and transportation of any offender convicted in *Great Britain*, shall extend and be

construed to extend to every convict who may have been or may be hereafter adjudged to transportation by any court or judge in any part of his Majesty's dominions not within the United Kingdom, and to every convict adjudged by any such court or judge to suffer death, and pardoned on condition of transportation, and brought to *England* in order to be transported, as fully and effectually, to all intents and purposes, as if such convict had been convicted and sentenced at any session of gaol delivery holden for any county within *England*.

Convicts may be kept to hard Labour, and may be removed to House of Correction.

XVIII. And be it further enacted, That it shall be lawful to keep to hard labour every offender under sentence or order of transportation, while he or she shall remain in the common gaol, if his or her health shall permit, and if one or more of the visiting justices of such gaol shall give a written order to that effect, and that it shall be lawful for one of his Majesty's principal secretaries of state, if he shall think fit, to order that any such offender be removed from the common gaol to the house of correction, and there kept to hard labour.

Time of Imprisonment to be deemed Part of Term.

XIX. And be it further enacted, That the time during which any offender shall continue in any gaol or house of correction, or in any such place of confinement as aforesaid, under sentence or order of transportation or banishment, shall be taken and reckoned in discharge or part discharge of the term of his or her transportation or banishment.

Offenders may be carried through any County to the Sea-port.

XX. And be it further enacted, That the sheriff or gaoler, and every person employed in the conveyance of any offender in order to be transported or banished, or to be imprisoned in any such place of confinement as aforesaid, or in the reconveyance of any offender from any such place of confinement to the gaol or prison from which he was removed, may, in such manner as he shall think fit, carry and secure such offender in and through any county of *Great Britain*, towards the sea-port or place from whence he or she is to be transported or banished, or where he or she is to be confined, or to the gaol or prison to which he or she is to be reconveyed.

Expences of Removal to be paid by the County where Conviction took place.

XXI. And be it further enacted, That in *England* and *Wales* all such fees, on the delivering out of custody of any such offender so ordered to be transported or removed, as have usually been paid to the sheriff or gaoler, and all reasonable expences which the sheriff or gaoler shall incur in every such removal, shall be paid by the county, riding, division, city, borough, liberty, or place, for which the court in which the offender was convicted shall have been held; and the sheriff or gaoler shall receive the money due for such expences from the treasurer of such county, riding, division, city, borough, liberty, or place; such fees and expences being first allowed by the order of the justices of the peace, at their quarter or other general sessions of the peace, who are hereby required to make such order as shall be just in that behalf; and the clerk of the court shall be paid by such treasurer the same fee as hath been usually paid, and he is lawfully entitled to receive, for every order of transportation; and in *Scotland* all such fees and expences shall be paid in the same manner as has been heretofore practised.

Punishing Person found at large before the Expiration of his Sentence.

XXII. And be it further enacted, That if any offender who shall have been or shall be so sentenced or ordered to be transported or banished, or who shall have agreed or shall agree to transport or banish himself or herself on certain conditions, either for life or any number of years, under the provisions of this or any former Act, shall be afterwards at large within any part of his Majesty's dominions, without some lawful cause, before the expiration of the term for which such offender shall have been sentenced or ordered to be transported or banished, or shall have so agreed to transport or banish himself or herself, every such offender so being at large, being thereof lawfully convicted, shall suffer death as in cases of felony without the benefit of clergy; and such offender may be tried either in the county or place where he or she shall be apprehended, or in that from whence he or she was ordered to be transported or banished; and if any person shall rescue or attempt to rescue, or assist in rescuing or attempting to rescue, any such offender from the custody of such superintendant or overseer, or of any sheriff or gaoler or other person conveying, removing, transporting, or reconveying him or her, or shall convey or cause to be conveyed any disguise, instrument for effecting escape, or arms, to

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such offender, every such offence shall be punishable in the same manner as if such offender had been confined in a gaol or prison in the custody of the sheriff or gaoler, for the crime of which such offender shall have been convicted; and whoever shall discover and prosecute to conviction any such offender so being at large within this kingdom, shall be entitled to a reward of twenty pounds for every such offender so convicted.

Reward for prosecuting to Conviction Persons at large, 20*l.*

XXIII. And be it further enacted, That in any indictment against any offender for being found at large contrary to the provisions of this or of any other Act now made or hereafter to be made, and also in any indictment against any person who shall rescue or attempt to rescue, or assist in rescuing any such offender from such custody, or who shall convey or cause to be conveyed any disguise, instrument for effecting escape, or arms, to any such offender, contrary to the provisions of this or of any other Act now made or hereafter to be made, whether such offender shall have been tried before any court or judge within or without the United Kingdom, or before any naval or military court-martial, it shall be sufficient to charge and allege the order made for the transportation or banishment of such offender, without charging or alleging any indictment, trial, conviction, judgment, or sentence, or any pardon or intention of mercy, or signification thereof, of or against or in any manner relating to such offender.

Form of Indictment against Offenders found at large, or against Persons rescuing Prisoners.

Certificate of Clerk of Court of Conviction and Sentence sufficient Evidence.

XXIV. And be it further enacted, That the clerk of the court or other officer having the custody of the records of the court where such sentence or order of transportation or banishment shall have been passed or made, shall, at the request of any person on his Majesty's behalf, make out and give a certificate in writing, signed by him, containing the effect and substance only (omitting the formal part) of every indictment and conviction of such offender, and of the sentence or order for his or her transportation or banishment (not taking for the same more than six shillings and eightpence), which certificate shall be sufficient evidence of the conviction and sentence or order for the transportation or banishment of such offender; and every such certificate, if made by the clerk or officer of any court in *Great Britain*, shall be received in evidence, upon proof of the signature and official character of the person signing the same; and every such certificate, if made by the clerk or officer of any court out of *Great Britain*, shall be received in evidence if verified by the seal of the court, or by the signature of the judge, or one of the judges of the court, without further proof.

Not to extend to Persons banished under 60 G. 3. c. 8.

XXV. And be it further enacted, That nothing in this Act contained respecting offenders under sentence or order of banishment, shall apply to persons adjudged to be banished under and by virtue of an Act passed in the sixtieth year of his late Majesty's reign, intituled "An Act for the more "effectual Prevention and Punishment of blasphemous and seditious "Libels."

For protecting transported Felons in the Enjoyment of Property acquired after Conviction.

XXVI. And whereas it hath sometimes happened, that felons under sentence or order of transportation in *New South Wales* and the islands adjacent, have received from the governor or lieutenant governor thereof remissions, either absolute or conditional, of the whole or of some part of the term of their transportation, and, have by their industry acquired property, in the enjoyment whereof it is expedient to protect them; and the like may happen in future in the same colony, and other colonies to which felons may be transported under and by virtue of this Act: Be it therefore enacted, That it shall and may be lawful for every felon under sentence or order of transportation, who hath received or shall receive any such remission as aforesaid from the governor or lieutenant governor of *New South Wales*, or from the governor or lieutenant governor of any other colony, who may be authorized to grant the same, while such felon shall reside in a place where he lawfully may reside under such sentence order or remission, and under the provisions of this Act, to maintain any action or suit for the recovery of any property, real personal or mixed, acquired by such felon since his or her conviction, and for any damage or injury sustained by such felon since his or her conviction, not only in the courts of the colony or place where such felon shall lawfully reside, but also in the courts of this kingdom, and of all other his Majesty's dominions; and if the defendant in any such action or suit shall plead or allege in his defence the plaintiff's or complainant's conviction of felony, and the plaintiff

or complainant shall allege and prove that he or she hath received such remission as aforesaid, and is residing in some place consistent therewith and with the provisions of this Act, a verdict shall pass and judgment shall be given for the plaintiff or complainant.

General Issue.

XXVII. And be it further enacted, That if any suit or action shall be prosecuted in *England*, *Wales*, or *Ireland*, against any person for any thing done in pursuance of this Act, the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and that the same was done by the authority of this Act; and if a verdict shall pass for the defendant, or judgment shall in any manner be given against the plaintiff, the defendant shall recover treble costs, and have the like remedy for the same as any defendants have by law in other cases; and notwithstanding a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be had shall certify his approbation of the verdict.

Limitation of Actions.

XXVIII. And be it further enacted, That all actions suits and prosecutions against any person for any thing done in pursuance of this Act, shall be commenced within six calendar months after the fact committed, and not otherwise; and if the fact was done within the body of any county, it shall be laid and tried in that county, and no other; and if done out of the body of any county, it shall be laid and tried in the county of *Middlesex*, and not elsewhere.

The following Acts and Parts of Acts repealed, viz.

XXIX. And be it further enacted, That from and after the commencement of this Act, so much of an Act passed in the fourth year of the reign of King *George* the First, intituled "An Act for the further preventing "Robbery Burglary and other Felonies, and for the more effectual Trans- "portation of Felons, and unlawful Exporters of Wool; and for declaring "the Law upon some Points relating to Pirates," as relates to contracts and security for the transportation of offenders, and to the punishment of those who return from transportation; and so much of an Act passed in the sixth year of the same reign, intituled "An Act for the further pre- "venting Robbery Burglary and other Felonies, and for the more effec- "tual Transportation of Felons," as relates to the same objects; and an Act passed in the sixteenth year of the reign of King *George* the Second, intituled "An Act for the more easy and effectual Conviction of Offend- "ers found at large within the Kingdom of *Great Britain*, after they have "been ordered for Transportation;" and an Act passed in the eighth year of the reign of King *George* the Third, intituled "An Act for the more "speedy and effectual Transportation of Offenders;" and so much of an Act passed in the twenty-eighth year of the same reign, intituled "An "Act to continue several Laws relating to the granting a Bounty on the "Exportation of certain Species of *British* and *Irish* Linens exported, and "taking off the duties on the Importation of Foreign Raw Linen Yarns "made of Flax, and to the preventing the committing of Frauds by Bank- "rupts, and for continuing and amending several Laws relating to the "Imprisonment and Transportation of Offenders," as relates to the transportation of offenders, and their removal to and imprisonment in temporary places of confinement; and so much of an Act passed in the thirty-first year of the same reign, intituled "An Act for the better regulating of "Gaols and other Places of Confinement," as relates to the imprisonment and employment in hard labour of prisoners sentenced to transportation; and an Act passed in the forty-third year of the same reign, intituled "An "Act to facilitate and render more easy the Transportation of Offenders;" shall be and the same are hereby repealed.

4 G. 1. c. 11. in Part.

6 G. 1. c. 23. in Part.

16 G. 2. c. 15.

8 G. 3. c. 15.

28 G. 3. c. 24. in Part.

31 G. 3. c. 46. in Part.

43 G. 3. c. 15

[No. XLIV.] 6 George IV. c. 25.—An Act for defining the Rights of Capital Convicts who receive Pardon, and of Convicts after having been punished for Clergyable Felonies; for placing Clerks in Orders on the same Footing with other Persons, as to Felonies; and for limiting the Effect of the Benefit of Clergy.—[20th *May* 1825.]

(H.)

JUDGMENTS IN CASES NOT INCLUDED IN THE LAST DIVISION.

[No. I.] 9 Henry III. (Magna Charta) c. 14.—How Men of all Sorts shall be amerced, and by whom.

[No. II.] 51 Henry III. stat. 6.—A Statute of the Pillory and Tumbrel, and of the Assize of Bread and Ale.

[No. III.] 36 Edward III. stat. 1. c. 14.—The Fines and Amerciaments of Labourers, Artificers, and Servants, shall be to the Use of the Commons and distributed among them, during three Years.

[No. IV.] 30 George III. c. 48.—An Act for discontinuing the Judgment which has been required by Law to be given against Women convicted of certain Crimes, and substituting another Judgment in lieu thereof.

[See Cl. II. No. 50.]

[No. V.] 56 George III. c. 138.—An Act to abolish the Punishment of the Pillory, except in certain Cases.—[2d *July* 1816.]

No. V. 56 Geo. III. c. 138.

'WHEREAS the punishment of the pillory has in many cases been found inexpedient and not fully to answer the purpose for which it was intended;' Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act judgment shall not be given and awarded against any person or persons convicted of any offence, that such person or persons do stand in or upon the pillory, except for the offences herein-after mentioned; any law statute or usage to the contrary notwithstanding: Provided that all laws now in force whereby any person is subject to punishment for the taking any false oath, or for committing any manner of wilful and corrupt perjury, or for the procuring or suborning any other person so to do, or for wilfully, falsely and corruptly affirming or declaring, or procuring or suborning any other person so to affirm and declare, in any matter or thing, which if the same had been deposed in the usual form would have amounted to wilful and corrupt perjury, shall continue and be in full force and effect; and that all persons guilty of any of the said several offences shall incur and suffer the same punishment penalties and forfeitures as such persons were subject to by the laws and statutes of this realm, or any of them, before the passing of this Act, and as if this Act had not been made.

Judgment of Pillory to be awarded for certain Offences only.

II. And be it further enacted, That in all cases where the punishment of the pillory has hitherto formed the whole or a part of the judgment to be pronounced, it shall and may be lawful for the court before whom such offence is tried, to pass such sentence of fine or imprisonment, or of both, in lieu of the sentence of pillory, as to the said court shall seem most proper: Provided that nothing herein contained shall extend or be construed to extend in any manner to change alter or affect any punishment whatsoever which may now be by law inflicted in respect of any offence, except only the punishment of pillory, in manner as herein above is enacted.

Court may fine or imprison Offenders.

Not to change any Punishment for Offences, except the Pillory.

[No. VI.] 57 George III. c. 75.—An Act to abolish the Punishment of Public Whipping on Female Offenders.—[*7th July* 1817.]

No. VI. 57 Geo. III. c. 75.

'WHEREAS the punishment of public whipping of female offenders has been found inexpedient;' be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, judgment shall not be given and awarded against any female or females convicted of any offence that such female offender or offenders do suffer the punishment of being publicly whipped; any law, statute, or usage to the contrary notwithstanding.

Judgment of whipping shall not be awarded on females;

II. And be it further enacted, That in all cases where the punishment of public whipping on female offenders has hitherto formed the whole or part of the judgment to be pronounced, it shall and may be lawful for the Court before whom any such offender shall be tried, to pass such sentence of confinement to hard labour in the common gaol or house of correction in lieu of the sentence of being publicly whipped, as to the said Court shall seem most proper: Provided, that nothing herein contained shall extend or be construed to extend in any manner to change, alter, or affect any punishment whatsoever, which may now be by law inflicted in respect of any offence, except only the punishment of public whipping on female offenders, in manner as herein above is enacted.

but imprisonment.

[No. VII.] 1 George IV. c. 57.—An Act to repeal an Act passed in the Fifty-seventh Year of the Reign of his late Majesty King *George* the Third, intituled, *An Act to abolish the Punishment of Public Whipping on Female Offenders*, and to make further Provisions in lieu thereof.—[*15th July* 1820.]

No. VII. 1 Geo. IV. c. 57.

WHEREAS by an Act passed in the fifty-seventh year of the reign of his late Majesty King *George* the Third, intituled, *An Act to abolish the Punishment of Public Whipping on Female Offenders*, it is enacted, that from and after the passing of that Act, judgment shall not be given and awarded against any female or females convicted of any offence, that such female offender or offenders do suffer the punishment of being publicly whipped; and that in all cases where the punishment of public whipping on female offenders has hitherto formed the whole or part of the judgment to be pronounced, it shall and may be lawful for the Court before whom any such offender shall be tried, to pass such sentence of confinement to hard labour in the common gaol or house of correction, in lieu of the sentence of being publicly whipped, as to the said Court shall seem most proper; provided that nothing herein contained shall extend or be construed to extend, in any manner to change, alter, or affect any punishment whatsoever, which may then be by law inflicted in respect of any offence, except only the punishment of public whipping on female offenders: And whereas the said Act extends only to abolishing the punishment of publicly whipping female offenders, and it is expedient that the said Act should be repealed, and such further provisions made in lieu thereof as are hereinafter mentioned: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, the said recited Act of the fifty-seventh year of his late Majesty shall be and the same is hereby repealed, to all intents and purposes whatsoever.

57 G. 3. c. 75.

Recited Act repealed.

II. And be it further enacted, That from and after the passing of this Act, judgment or sentence shall in no case whatever be given and awarded against any female or females convicted of any offence whatsoever, that such female offender or offenders do suffer the punishment of being whip-

Judgment or sentence of whipping shall not be awarded on female offenders;

No. VII. 1 Geo. IV. c. 57.

ped either publicly or privately; any law, statute, or usage to the contrary notwithstanding.

but instead thereof imprisonment or solitary confinement.

III. And be it further enacted, That in all cases where the punishment of whipping, either publicly or privately, on female offenders, has hitherto formed the whole or part of the judgment or sentence to be pronounced, or has in any other case been inflicted, it shall and may be lawful for the court or justice of the peace before whom any such offender shall be tried or convicted, to pass sentence of confinement to hard labour in the common gaol or house of correction, for any space of time not exceeding six months, nor less than one month; or of solitary confinement therein for any space not exceeding the space of seven days at any one time, in lieu of the sentence of being publicly or privately whipped, as to the said court or justice shall seem most proper: Provided, that nothing herein contained shall extend, or be construed to extend, in any manner to change, alter, or affect any punishment whatsoever which may now be by law inflicted in respect of any offence, save and except only the punishment of publicly or privately whipping on female offenders, in manner as hereinbefore is enacted.

[No. VIII.] 1 George IV. c. 115.—An Act to repeal so much of the several Acts passed in the Thirty-ninth Year of the Reign of *Elizabeth*; the Fourth of *George* the First; the Fifth and Eighth of *George* the Second; as inflicts Capital Punishment on certain Offences therein specified, and to provide more suitable and effectual Punishment for such Offences.—[25*th July* 1820.]

No. VIII. 1 Geo. IV. c. 115.

39 Eliz. c. 9.

WHEREAS by an Act passed in the thirty-ninth year of the reign of Queen *Elizabeth*, intituled, *An Act for taking away of Clergy from Offenders against a certain Statute made in the Third Year of the Reign of King* Henry *the Seventh, concerning the taking away of Women against their Wills unlawfully*, it is among other things enacted, that all and every such person and persons as at any time after the end of this present Session of Parliament shall be convicted or attainted of or for any offence, to be committed after the end of this present Session of Parliament, made felony by the said Act of the third year of the reign of King *Henry* the Seventh, or which shall be indicted or arraigned of or for any such offence, and stand mute or make no direct answer, or shall challenge peremptorily above the number of twenty, shall in every such case lose his and their benefit of clergy, and shall suffer pains of death without any benefit of clergy: And whereas by an Act passed in the fourth year of the reign of King *George*

4 G. 1. c. 11.

the First, intituled, *An Act for the further preventing Robbery, Burglary, and other Felonies, and for more effectual Transportation of Felons and unlawful Exporters of Wool, and for declaring the Law upon some Points relating to Pirates*, it is amongst other things enacted, that wherever any person taketh money or reward, directly or indirectly, under pretence or upon account of helping any person or persons to any stolen goods or chattels, every such person so taking money or reward as aforesaid (unless such person doth apprehend or cause to be apprehended such felon who stole the same, and cause such felon to be brought to his trial for the same, and give evidence against him), shall be guilty of felony, and suffer the pains and penalties of felony, according to the nature of the felony committed in stealing such goods, and in such and the same manner as if such offender had himself stole such goods and chattels, in the manner and with such circumstances as the same were stolen: And whereas by an Act passed in

5 G. 2. c. 30.

the fifth year of the reign of King *George* the Second, intituled, *An Act to prevent the committing of Frauds by Bankrupts*, it is amongst other things enacted, that if any person or persons who, since the fourteenth day of *May* which was in the year of our Lord one thousand seven hundred and twenty-nine, hath or have become bankrupt, or who shall at any time hereafter during the continuance of this Act become bankrupt, within the intent and meaning of the several statutes made and now in force concern-

No. VIII. 1 Geo. IV. c. 115.

ing bankrupts, or any of them, and against whom a commission of bankrupt under the great seal of *Great Britain* hath since the said fourteenth day of *May*, which was in the year of our Lord one thousand seven hundred and twenty-nine, been awarded and issued out, or shall at any time hereafter be awarded and issued out, whereupon the person or persons against whom such commission hath issued or shall issue, have or hath been or shall be declared bankrupt or bankrupts, shall not within forty-two days after notice thereof in writing to be left at the usual place of abode of such person or persons, a personal notice in case such person or persons be then in prison, and notice given in the *London Gazette* that such commission or commissions is, are, or have been issued, and of the time and place of a meeting of the commissioners therein named, or the major part of them, surrender him, her, or themselves to the said commissioners named in the said commission, or the major part of them, and sign and subscribe such surrender, and submit to be examined from time to time upon oath, or being of the people called *quakers*, upon the solemn affirmation by law appointed for such people, by and before such commissioners or the major part of them by such commission authorized, and in all things conform to the several statutes already made and now in force concerning bankrupts; and also upon such his, her, or their examination, fully and truly disclose and discover all his, her, or their effects and estate, real and personal, and how and in what manner, to whom and upon what consideration, and at what time or times, he, she, or they have or hath disposed of, assigned, or transferred any of his, her, or their goods, wares, merchandizes, monies, or other estate and effects, and all books, papers, and writings relating thereunto, of which he, she, or they was or were possessed, in or to which he, she, or they was or were anywise interested or intitled, or which any person or persons had or hath, or have had in trust for him, her, or them, or for his, her, or their use, at any time before or after the issuing of the said commission, or whereby such person or persons, or his, her or their family or families, hath or have, or may have or expect any profit, possibility of profit, benefit, or advantage whatsoever, except only such part of his, her, or their estate and effects as shall have been really and *bonâ fide* before sold or disposed of in the way of his, her, or their trade and dealings, and except such sums of money as shall have been laid out in the ordinary expence of his, her, or their family or families; and also upon such examination deliver up unto the said commissioners by the said commission authorized, or the major part of them, all such part of his, her, or their the said bankrupt's goods, wares, merchandizes, money, estate and effects, and all books, papers, and writings relating thereunto, as at the time of such examination shall be in his, her, or their possession, custody, or power, (his, her, or their necessary wearing apparel, and the necessary wearing apparel of the wife and children of such bankrupt only excepted,) then he, she, or they the said bankrupt or bankrupts, in case of any default or wilful omission in not surrendering and submitting to be examined as aforesaid; or in case he, she, or they shall remove, conceal, or embezzle any part of such his, her, or their estate, real or personal, to the value of twenty pounds, or any books of accounts, papers, or writings relating thereto, with an intent to defraud his, her, or their creditors (and being thereof lawfully convicted by judgment or information,) shall be deemed and adjudged to be guilty of felony, and shall suffer as felons without benefit of clergy, or the benefit of any statute made in relation to felons: And whereas by a certain Act passed in the eighth year of King *George* the Second, intituled, *An Act for rendering the Laws more effectual for punishing such Persons as shall wilfully and maliciously pull down or destroy Turnpikes; for repairing Highways or Locks, or other Works erected by Act of Parliament; for making Rivers navigable, and for other Purposes therein mentioned;* it is amongst other things enacted, That if any person or persons whatsoever shall, either by day or night, wilfully or maliciously pull down, pluck up, throw down, level, or otherwise destroy any turnpike gate or turnpike gates, or any post or posts, rail or rails, wall or walls, or any chain, bar, or fence of any kind whatsoever, set up or erected, or hereafter to be set up or erected, to prevent passengers from passing by

8 G. 2. c. 20.

No. VIII. 1 Geo. IV. c. 115.

without paying any toll laid and directed to be paid by any Act or Acts of Parliament already made or hereafter to be made for that purpose, or any house or houses erected or to be erected for the use of any such turnpike gate or turnpike gates, or any other fence or fences, or any lock, sluice, flood gate or other works on any navigable river erected or to be erected by authority of Parliament, or forcibly rescue any person or persons being lawfully in custody of any officer or other person for any of the offences before mentioned, that then and in any of the said cases, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer as in cases of felony without benefit of clergy: And whereas it is expedient that so much of the said Acts hereinbefore recited, as inflicts the punishment of death in the cases aforesaid, should be repealed; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said Acts as inflicts punishment of death on the offences herein before recited, shall, from and after the passing of this Act, be and the same is hereby repealed.

So much of recited Acts as inflicts punishment of death for offences herein mentioned, shall be repealed.

II. And be it further enacted, That from and after the passing of this Act, all persons duly convicted of any of the offences herein before recited, which were punishable with death under any of the above recited Acts, shall be liable to be transported beyond the seas for life, or for such term, not less than seven years, as the court before which such person shall be convicted shall adjudge; or shall be liable, in case the said court shall think fit, to be imprisoned only, or imprisoned and kept to hard labour in the common gaol, penitentiary house, or house of correction, for any term not exceeding seven years.

Instead of the punishment of death, offenders shall be liable to transportation, &c.

[No. IX.] 1 George IV. c. 116.—An Act to repeal so much of the several Acts passed in the First and Second Years of the Reign of *Philip* and *Mary*, the Eighteenth of *Charles* the Second, the Ninth of *George* the First, and the Twelfth of *George* the Second, as inflicts Capital Punishment on certain Offences therein specified. [*25th July* 1820.]

No. IX. 1 Geo. IV. c. 116.

WHEREAS by an Act passed in the first and second years of the reign of King *Philip* and Queen *Mary*, intituled *An Act against certain Persons calling themselves* Egyptians, it is amongst other things enacted, That if any of the said persons called *Egyptians*, which shall be transported and conveyed into this realm of *England* or *Wales*, as is aforesaid, do continue and remain within the same by the space of one month, that then he or they so offending shall, by virtue of this Act, be deemed and judged a felon and felons, and shall therefore suffer pains of death, loss of lands and goods, as in cases of felony, by the order of the common law of this realm, and shall upon the trial of them or any of them therein so tried in the county, and by the inhabitants of the county or place where they or he shall be apprehended or taken, and not *per medietatem linguæ*, and shall lose the benefit and privilege of sanctuary and clergy: And whereas by an Act passed in the eighteenth year of the reign of King *Charles* the Second, intituled *An Act to continue a former Act for preventing of Theft and Rapine upon the Northern Borders of* England, and which last-mentioned Act having been continued in force by certain subsequent Acts, was made perpetual by a certain Act passed in the thirty-first year of King *George* the Second, it is amongst other things enacted, that the benefit of clergy shall be taken away from great, known, and notorious thieves, and spoil taken in the said counties of *Northumberland*, *Cumberland*, or either of them, during the continuance of this present Act, who shall be duly convicted for theft done or committed within the said counties, or either of them: And whereas by a certain Act passed in the said ninth year of the reign of King *George* the First, intituled *An Act for more effectual Execution of Justice in a pretended*

1 & 2 P. & M. c. 4.

18 C. 2. c. 3.

31 G. 2. c. 42.

9 G. 1. c. 28.

No. IX. 1 Geo. IV. c. 116.

privileged Place in the Parish of Saint George, *in the County of* Surrey, *commonly called* The Mint, *and for bringing to speedy and exemplary Justice such Offenders as are therein mentioned, and for giving relief to such Persons as are proper Objects of Charity and Compassion here,* it is amongst other things enacted, that if after the tenth day of *October* one thousand seven hundred and twenty-three, any person or persons whatsoever, wearing any wizard, mask, or disguised habit, or having his or their face or faces, or body or bodies disguised, shall within the said place called *Suffolk Place,* or *The Mint,* or within any the limits or pretended limits thereof, join in or aid or abet any riot or tumult there, or shall in any wizard, mask, or other disguise whatsoever, knowingly and willingly there oppose the execution of any legal process, order, or warrant, or assault and abuse any person or persons serving or executing any such process, order, or warrant, or for having so done, all and every such person and persons being lawfully convicted of any such offence, shall be adjudged guilty of felony, and shall forfeit and suffer as in cases of felony, without benefit of clergy: And whereas by an Act passed in the ninth year of the reign of King *George* the Second, intituled, *An Act for building a Bridge across the River* Thames, *from the* New Palace Yard, *in the City of* Westminster, *to the opposite Shore in the County of* Surrey, it is amongst other things enacted, that if any person or persons shall wilfully and maliciously blow up, pull down, or destroy the said bridge, or any part thereof, or attempt so to do, or unlawfully and without authority from the said commissioners or their successors, remove or take away any works thereto belonging, or in anywise direct or procure the same to be done, whereby the said bridge or the works thereof may be damaged, or the lives of the passengers endangered, such offender or offenders, being lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as a felon without benefit of clergy: And whereas several Acts for building bridges have heretofore from time to time passed, and have contained enactments to the like purport and effect as the enactments in the last-mentioned Act above recited: And whereas it is expedient that so much of the above-mentioned Acts as is herein-before recited should be repealed: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said Acts as is herein-before recited shall from and after the passing of this Act be and the same are hereby repealed.

9 G. 2. c. 29.

So much of recited Acts as inflicts capital Punishment for certain Offences therein specified, shall be repealed.

II. And be it further enacted, That such parts of all former Acts relating to bridges, as enact, that if any person or persons shall wilfully and maliciously blow up, pull down, or destroy any bridge, or part thereof, or attempt so to do, or unlawfully and without authority remove or take any works thereto belonging, or in anywise direct or procure the same to be done, such offender or offenders being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as a felon without benefit of clergy, shall from and after the passing of this Act be and the same are hereby repealed.

So much of former Acts as relate to the punishment of Persons for destroying Bridges, shall be repealed.

[No. X.] 4 George IV. c. 46.—An Act for repealing the Capital Punishments inflicted by several Acts of the Sixth and Twenty-seventh Years of King *George* the Second, and of the Third, Fourth, and Twenty-second Years of King *George* the Third; and for providing other Punishments in lieu thereof, and in lieu of the Punishment of Frame-breaking under an Act of the Twenty-eighth Year of the same Reign.—[4th *July* 1823.]

No. X. 4 Geo. IV. c. 46.

WHEREAS by an Act passed in the sixth year of the reign of his late Majesty King *George* the Second, intituled "An Act for making "perpetual the several Acts therein mentioned, for the better Regulation "of Juries, and for empowering the Justices of Session or Assizes for the

6 G. 2. c. 37.

No. X. 4 Geo. IV. c. 46.

" Counties Palatine of *Chester*, *Lancaster*, and *Durham*, to appoint a " Special Jury in manner therein mentioned; and for continuing the Act " for regulating the Manufacture of Cloth in the West Riding of the " County of *York* (except a clause therein contained); and for continuing " an Act for the more effectual punishing wicked and evil-disposed Per- " sons going armed in Disguise, and for other Purposes therein men- " tioned; and to prevent the cutting or breaking down the Bank of " any River or any Sea Bank; and to prevent the malicious cutting off " Hop Binds; and for continuing an Act made in the Thirteenth and " Fourteenth Years of the Reign of King *Charles* the Second, for " preventing Theft and Rapine upon the Northern Borders of *England*, " and for reviving and continuing certain Clauses in Two other Acts " made for the same Purpose," it is among other things enacted, that if any person or persons shall unlawfully and maliciously break down or cut down the bank or banks of any river or any sea bank whereby any lands shall be overflowed or damaged, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony and shall suffer death as in cases of felony without benefit of clergy: And whereas by the same Act it is further enacted, that if any person or persons shall unlawfully and maliciously cut any hop binds growing on poles in any plantation of hops, every person or persons so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as in cases of felony without benefit of clergy: And whereas by an Act passed in the twenty-seventh year of the reign of his said late Majesty, intituled " An Act for discharging the Corporation of the Governor, Bailiffs, and " Commonalty of the Company of Conservators of the Great Level of the " Fens, commonly called *Bedford Level*, from a Debt due to the Duke of " *Bedford* and Earl of *Lincoln*; and for enabling the Proprietors of Lands " in the North Level, Part of the said Great Level, to raise Money to " discharge the Proportion of the said North Level in the Debts of the " said Corporation; and for ascertaining and appropriating the Taxes to " be laid on the said North Level; and for the more effectual draining " and preserving the said North Level, and divers Lands adjoining " thereto, in the Manor of *Crowland*;" it is among other things enacted, that if any person or persons shall maliciously cut, break down, burn, demolish or destroy any bank, mill, engine, flood-gate or sluice, making or erecting, or made or erected, supported or maintained, for answering the purposes specified in the said Act, every person or persons so offending, being thereof convicted, shall be guilty of felony, and shall suffer death as felons, without benefit of clergy: And whereas by an Act passed in the third year of the reign of his late Majesty King *George* the Third, intituled " An Act to empower the Commissioners or Governors of the " Royal Hospital for Seamen at *Greenwich*, after defraying the necessary " Expences thereof, to provide for such Seamen, worn out and become " decrepit in the Service of their Country, who shall not be provided for " within the said Hospital, and to enable them to receive such Pensions " as shall be granted them by the said Commissioners or Governors in " the most easy and convenient manner, and for preventing Frauds and " Abuses attending the same," it is among other things enacted, that whosoever willingly and knowingly shall personate or falsely assume the name or character of, or procure any other to personate or falsely to assume the name and character of any person entitled or supposed to be entitled as an out-pensioner to any out-pension or allowance of money from the commissioners or governors of the said hospital, in order to receive the money due or supposed to be due on such out-pension, every such person so offending, and being lawfully convicted of any such offence or offences, shall be deemed guilty of felony and suffer death as a felon, without benefit of clergy: And whereas it is expedient that a lesser degree of punishment should be provided for the several offences created by the above recited Acts: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal,

27 G. 2. c. 19.

3 G. 3. c. 16.

So much of recited Acts as excludes the Benefit of Clergy from Persons destroying Banks, &c., or cutting Hop Binds, or personating Pensioners, repealed; and Offenders to be liable to Transportation.

No. X.
4 Geo. IV.
c. 46.

and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said recited Acts as excludes the benefit of clergy from persons convicted of the felonies thereby respectively created, shall be and the same are hereby repealed; and that from and after the passing of this Act any person convicted of the said felonies or any of them shall be liable, at the discretion of the court, to be transported beyond the seas for life or for any term not less than seven years, or to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding seven years.

II. And whereas by an Act passed in the fourth year of the reign of his said late Majesty King *George* the Third, intituled "An Act for the "better establishing a Manufactory of Cambricks and Lawns, or Goods "of the kind usually known under those Denominations, now carrying "on at *Winchelsea* in the County of *Sussex*, and for improving, regulating, "and extending the Manufacture of Cambricks and Lawns, or Goods of "the kind usually known under those Denominations, in that Part of "*Great Britain* called *England*," provision was made for the capital punishment of persons convicted of divers offences, in stealing cutting and destroying linen yarn linen cloth or manufactures of linen yarn, and the looms tools and implements used therein: And whereas by an Act passed in the twenty-second year of the reign of his said late Majesty, intituled "An Act for punishing Persons wilfully and maliciously destroying any "Woollen, Silk, Linen, or Cotton Goods, or any Implements prepared "for or used in the Manufacture thereof; and for repealing so much of "Two Acts, made in the Twelfth Year of King *George* the First, and in "the Sixth Year of his present Majesty, as relates to the Punishment "of Persons destroying any Woollen or Silk Manufactures, or any Imple-"ments prepared for or used therein," provision was made for the capital punishment of persons convicted of divers offences, in destroying the woollen, silk, linen, and cotton manufactures, and the tools tackle and utensils used therein: And whereas it is expedient to provide a lesser degree of punishment for such offences, and to amend some defects in the said two Acts, and to incorporate therewith the provision made by an Act passed in the twenty-eighth year of the reign of his said late Majesty, intituled "An Act for the better and more effectual Protection of Stock-"ing Frames, and the Machines or Engines annexed thereto or used "therewith; and for the Punishment of Persons destroying or injuring "of such Stocking Frames, Machines, or Engines, and the Framework-"knitted Pieces, Stockings, and other Articles and Goods used and made "in the Hosiery or Framework-knitted Manufactory; or breaking or "destroying any Machinery contained in any Mill or Mills used or any "way employed in preparing or spinning of Wool or Cotton for the Use "of the Stocking Frame," for the Punishment of persons convicted of divers offences, in cutting and destroying framework-knitted pieces stockings and other like articles, and breaking destroying and damaging frames, machines, engines, tools, instruments, and utensils used in the same manufacture and machinery in the said Act mentioned; be it therefore further enacted, That from and after the passing of this Act the whole of the said recited Act of the twenty-second year aforesaid, except so much thereof as repeals former Acts, and so much of the said recited Acts of the fourth and twenty-eighth years aforesaid as create felonies, in stealing damaging or destroying manufactures implements or machinery, shall be and the same are hereby repealed, save only as to offences committed before the passing of this Act, as to which the said three last recited Acts shall continue in force; and that from and after the passing of this Act, if any person shall by day or by night break into any house shop or building, or enter by force into any house shop or building with intent to cut, break, destroy, or damage, in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage process or progress of manufacture, any woollen, silk, linen, or cotton goods, or any goods of any one or more of those materials mixed with each other, or mixed with any other material; or to cut, break, destroy, or damage any other

4 G. 3. c. 37.

22 G. 3. c. 40.

28 G. 3. c. 55.

Punishing Persons by Transportation or Imprisonment, at Discretion of the Court, for destroying Woollen, Silk, Linen, or Cotton Goods, &c., in the Loom, &c.

No. X. 4 Geo. IV. c. 46.

article of the woollen, silk, linen, or cotton manufactures in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage process or progress of manufacture; or to cut, break, destroy, or damage any warp or shute of woollen, silk, linen, or cotton, or of any one or more of those materials mixed with each other, or mixed with any other material, or any framework-knitted piece, stocking, hose, or lace; or to burn, break, cut, destroy, or damage any loom, frame, machine, engine, rack, tool, tackle, utensil, instrument, or implement, whether fixed or moveable, prepared for or employed in carding, spinning, throwing, weaving, fulling, shearing, or otherwise manufacturing or preparing any such goods or articles; or shall wilfully and maliciously, and without lawful authority, cut, break, destroy, or damage any such woollen, silk, linen, cotton or mixed goods, or articles in the loom or frame, or on any machine or engine, or on the rack or tenters, or in any stage process or progress of manufacture; or burn, break, cut, destroy, or damage any such loom, frame, machine, engine, rack, tool, tackle, utensil, instrument, or implement as aforesaid; or counsel, procure, aid, or abet the commission of the said offences, or of any of them; every person so offending, being thereof lawfully convicted, shall be guilty of felony, and shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol or house of correction, for any term not exceeding seven years.

[No. XI.] 4 George IV. c. 48.—An Act for enabling Courts to abstain from pronouncing Sentence of Death in certain Capital Felonies.—[4th *July* 1823.]

No. XI. 4 Geo. IV. c. 48.

WHEREAS it is expedient that in all cases of felony not within the benefit of clergy, except murder, the court before which the offender or offenders shall be convicted shall be authorized to abstain from pronouncing judgment of death whenever such court shall be of opinion that, under the particular circumstances of any case, the offender or offenders is or are a fit and proper subject or fit and proper subjects to be recommended for the royal mercy: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, whenever any person shall be convicted of any felony, except murder, and shall by law be excluded the benefit of clergy in respect thereof, and the court before which such offender shall be convicted shall be of opinion that, under the particular circumstances of the case, such offender is a fit and proper subject to be recommended for the royal mercy, it shall and may be lawful for such court, if it shall think fit so to do, to direct the proper officer then being present in court to require and ask, whereupon such officer shall require and ask, if such offender hath or knoweth any thing to say why judgment of death should not be recorded against such offender; and in case such offender shall not allege any matter or thing sufficient in law to arrest or bar such judgment, the court shall and may and is hereby authorized to abstain from pronouncing judgment of death upon such offender; and instead of pronouncing such judgment to order the same to be entered of record, and thereupon such proper officer as aforesaid shall and may and is hereby authorized to enter judgment of death on record against such offender in the usual and accustomed form, and in such and the same manner as is now used, and as if judgment of death had actually been pronounced in open court against such offender by the court before which such offender shall have been convicted.

Court may abstain from pronouncing Sentence of Death on Persons convicted of any Felonies, except Murder.

II. And be it further enacted, That a record of every such judgment so entered as aforesaid shall have the like effect to all intents and purposes as if judgment of death had actually been pronounced in open court against such offender by the court before which such offender shall have been convicted.

Record of Judgment to have the same Effect as if pronounced.

poses, and be followed by all the same consequences as if such judgment had actually been pronounced in open court, and the offender had been reprieved by the court.

No. XI. 4 Geo. IV. c. 48.

III. And be it further enacted, That nothing herein contained shall extend to that part of the United Kingdom called *Scotland*.

Act not to extend to Scotland.

[No. XII.] 4 George IV. c. 53.—An Act for extending the Benefit of Clergy to several Larcenies therein mentioned.—[8th *July* 1823.]

No. XII. 4 Geo. IV. c. 53.

WHEREAS by an Act passed in the twenty-second year of the reign of his late Majesty King *Charles* the Second, intituled "An Act "for taking away the Benefit of Clergy from such as steal Cloth from the "Rack, and from such as shall steal or embezzle His Majesty's Ammuni- "tion and Stores," the benefit of clergy is taken away from persons convicted of cutting and taking, stealing or carrying away any cloth or other woollen manufactures from the rack or tenter in the night-time, or of stealing or embezzling any of his Majesty's sails cordage or any other his Majesty's naval stores to the value of twenty shillings; provided that it shall be lawful for the judges to grant a reprieve for the staying of the execution of such offenders and to cause them to be transported for the space of seven years and kept to hard labour: And whereas by an Act passed in the tenth and eleventh years of the reign of King *William* the Third, intituled "An Act for the better apprehending prosecuting and "punishing of Felons that commit Burglary Housebreaking or Rob- "bery in Shops, Warehouses, Coach-houses, or Stables, or that steal "Horses," as the same is altered by an Act passed in the first year of his present Majesty's reign, the benefit of clergy is taken away from persons convicted of privately and feloniously stealing any goods wares or merchandize of the value of fifteen pounds in any shop, warehouse, coach-house, or stable, or of assisting hiring or commanding any person to commit any such offence: And whereas by an Act passed in the twenty-fourth year of the reign of King *George* the Second, intituled "An Act for the more effectual preventing of Robberies and Thefts upon "any navigable Rivers, Ports of Entry or Discharge, Wharfs and Keys "adjacent," the benefit of clergy is taken away from persons convicted of feloniously stealing any goods wares or merchandize of the value of forty shillings in any ship, barge, lighter, boat, or other vessel or craft upon any navigable river, or in any port of entry or discharge, or in any creek belonging to any navigable river, port of entry or discharge within the kingdom of *Great Britain*, or of feloniously stealing any goods wares or merchandize of the value of forty shillings upon any wharf or key adjacent to any navigable river port of entry or discharge, or of being present aiding and assisting in the committing any of the offences aforesaid: And whereas it is expedient that a lesser degree of punishment than that of death should be provided for the offences from which the benefit of clergy is so taken away as aforesaid, and that the same punishment should be extended in manner herein-after mentioned: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said recited Acts as takes away the benefit of clergy from the persons convicted of the offences herein-before mentioned, shall be and the same are hereby repealed; and that from and after the passing of this Act every person who shall be lawfully convicted of cutting, taking, stealing, or carrying away any cloth or other woollen manufactures from the rack or tenters in the night-time, or of stealing or embezzling his Majesty's ammunition, sails, cordage, or naval or military stores, or of privately stealing any goods or chattels in any shop, warehouse, coach-house, or stable, or of stealing any goods wares or merchandize in any ship, barge, lighter, boat, or other vessel or craft upon any navigable river or canal,

22 Car. 2. c. 5.

10 & 11 Gul. 3. c. 23.

1 G. 4. c. 117.

24 G. 2. c. 45.

So much of recited Acts as takes away Benefit of Clergy from Persons convicted of cutting Woollen Goods, stealing Naval Stores, stealing in Shops, or in any Ship, repealed, and Offenders liable to Transportation or Imprisonment.

No. XII. 4 Geo. IV. c. 53.

or in any port of entry or discharge, or in any creek belonging to any such river canal or port, or from any dock wharf or quay adjacent to any such river canal or port, or of procuring, counselling, aiding, or abetting any such offender, shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for any term not less than seven years, or to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol or house of correction, for any term not exceeding seven years.

[No. XIII.] 4 George IV. c. 54.—An Act for allowing the Benefit of Clergy to Persons convicted of certain Felonies under Two Acts, of the Ninth Year of King *George* the First and of the Twenty-seventh Year of King *George* the Second; for making better Provision for the Punishment of Persons guilty of sending or delivering threatening Letters, and of Assaults with Intent to commit Robbery.—[8th *July* 1823.]

No. XIII. 4 Geo. IV. c. 54.

9 G. 1. c. 22.

WHEREAS by an Act passed in the ninth year of the reign of his late Majesty King *George* the First, intituled "An Act for the more "effectual punishing wicked and evil-disposed Persons going armed in "Disguise, and doing Injuries and Violences to the Persons and Properties of His Majesty's Subjects, and for the more speedy bringing the "Offenders to Justice;" it is among other things enacted, that if any person or persons being armed with swords fire arms or other offensive weapons, and having his or their faces blacked or being otherwise disguised, shall appear in any forest, chase, park, paddock, or grounds inclosed with any wall pale or other fence, wherein any deer have been or shall be usually kept, or in any warren or place where hares or conies have been or shall be usually kept, or in any high road, open heath, common, or down; or shall unlawfully and wilfully hunt, wound, kill, destroy, or steal any red or fallow deer, or unlawfully rob any warren or place where conies or hares are usually kept; or shall unlawfully steal or take away any fish out of any river or pond; or if any person or persons shall unlawfully and maliciously break down the head or mound of any fish pond whereby the fish shall be lost or destroyed, or shall forcibly rescue any person being lawfully in custody of any officer or other person for any of the offences before mentioned; or if any person or persons shall, by gift or promise of money or other reward procure any of his Majesty's subjects to join him or them in any such unlawful act, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony and shall suffer death as in cases of felony without benefit of clergy: And whereas it is expedient that a lesser degree of punishment should be provided for the said recited offences, and that the same punishment should be extended to persons accessary thereto: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said recited Act as excludes the benefit of clergy in the cases aforesaid, shall be and the same is hereby repealed; and that from and after the passing of this Act every person duly convicted of the felonies herein-before recited or any of them, or of procuring, counselling, aiding, or abetting the commission thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of seven years or to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding three years.

So much of recited Act as excludes the Benefit of Clergy from Persons guilty of going armed for certain felonious Purposes, &c. repealed, and Offenders to be transported or imprisoned.

II. And whereas by the said recited Act it is further enacted, that if any person or persons shall unlawfully and maliciously kill maim or wound any cattle, or cut down or otherwise destroy any trees planted in any avenue, or growing in any garden orchard or plantation for ornament

Persons killing or maiming Cattle, or destroying Trees, &c. and their Accessaries, to be liable to Transportation or Imprisonment.

sne.ter or profit, or shall forcibly rescue any person being lawfully in custody of any officer or other person for such offence, or shall, by gift or promise of money or other reward, procure any of his Majesty's subjects to join him or them in any such unlawful act, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as in case of felony without benefit of clergy: And whereas it is expedient that a lesser degree of punishment should be provided for the said last-recited offences, and that the same should be extended in the manner herein-after mentioned; be it therefore further enacted, That so much of the said recited Act as is last herein-before recited shall be and the same is hereby repealed; save only as to offences committed before the passing of this Act, as to which the said recited Act shall continue in force; and that from and after the passing of this Act, if any person shall unlawfully and designedly kill maim or wound any cattle, whether from malice conceived against the owner or otherwise, or shall unlawfully and maliciously cut down or otherwise destroy any trees planted in any avenue or growing in any garden orchard or plantation for ornament shelter or profit, or shall procure, counsel, aid, or abet the commission of the said offences or of any of them, or shall forcibly rescue any person lawfully in custody of any officer or other person for any of the said offences, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for such term not less than seven years, as the court shall adjudge, or to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol or house of correction for any term not exceeding seven years.

III. And whereas by the said recited Act it is further enacted, that if any person or persons shall knowingly send any letter without any name subscribed thereto, or signed with a fictitious name, demanding money venison or other valuable thing, or shall forcibly rescue any person being lawfully in custody of any officer or other person for any such offence, or shall by gift or promise of money or other reward procure any of his Majesty's subjects to join him or them in any such unlawful act, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as in cases of felony without benefit of clergy: And whereas by another Act passed in the twenty-seventh year of the reign of his late Majesty King *George* the Second, intituled "An "Act to explain and amend an Act made in the Ninth Year of the Reign "of his late Majesty King *George* the First, intituled 'An Act for the "'more effectual punishing wicked and evil-disposed Persons going "'armed and disguised, and doing Injuries and Violences to the Persons "'and Properties of His Majesty's Subjects, and for the speedy bringing "' the Offenders to Justice,'" it is among other things enacted, that if any person or persons shall knowingly send any letter without any name subscribed thereto, or signed with a fictitious name or names, letter or letters, threatening to kill or murder any of his Majesty's subject or subjects, or to burn their houses, outhouses, barns, stacks of corn or grain, hay or straw, though no money or venison or other valuable thing shall be demanded in or by such letter or letters, or shall forcibly rescue any person being lawfully in custody of any officer or other person for the said offence, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as in cases of felony without benefit of clergy: And whereas by another Act passed in the thirtieth year of the reign of his said late Majesty King *George* the Second, intituled "An Act for the more effectual Punishment of Persons who shall "attain or attempt to attain Possession of Goods or Money by false "or untrue Pretences, for preventing the unlawful pawning of Goods, "for the easy Redemption of Goods pawned, and for preventing "Gaming in Public Houses by Journeymen, Labourers, Servants, and "Apprentices," it is among other things enacted, that all persons who shall knowingly send or deliver any letter or writing with or without a name or names subscribed thereto, or signed with a fictitious name or names,

9 G. 1. c. 22. Threatening Letters.

27 Geo. 2. c. 15.

30 G. 2. c. 24.

No. XIII. 4 Geo. IV. c. 54.

letter or letters, threatening to accuse any person of any crime punishable by law with death, transportation, pillory, or any other infamous punishment, with a view or intent to extort or gain money, goods, wares, or merchandizes from the person or persons so threatened to be accused, shall be deemed offenders against law and the public peace; and the court before whom such offender or offenders shall be tried shall, in case he she or they shall be convicted of any of the said offences, order such offender or offenders to be fined and imprisoned, or to be put in the pillory or publicly whipped, or to be transported for the term of seven years, as the court in which any such offender or offenders shall be convicted shall think fit and order: And whereas it is expedient that a lesser degree of punishment should be provided for the offence of sending threatening letters, in the cases mentioned in the two first recited Acts, and that the same degree of punishment should be inflicted in the cases mentioned in the last recited Act, and be extended to persons accessory to the said offences; be it therefore further enacted, That from and after the passing of this Act, so much of the said recited Acts of the ninth year of the reign of King *George* the First, and of the twenty-seventh and thirtieth years of the reign of King *George* the Second, as relates to the sending and delivering letters in the cases therein respectively mentioned, shall be and the same is hereby repealed, save only as to offences committed before the passing of this Act, as to which the said Acts shall continue in force; and that from and after the passing of this Act, if any person shall knowingly and wilfully send or deliver any letter or writing with or without any name or signature subscribed thereto, or with a fictitious name or signature, demanding money or other valuable thing, or threatening to kill or murder any of his Majesty's subjects, or to burn or destroy his or their houses, outhouses, barns, stacks of corn or grain, hay or straw, or shall knowingly and wilfully send or deliver any such letter or writing threatening to accuse any of his Majesty's subjects of any crime punishable by law with death transportation or pillory, or of any infamous crime, with a view or intent to extort or gain money, security for money, goods or chattels, wares or merchandize from the person or persons so threatened, or shall procure, counsel, aid, or abet the commission of the said offences or of any of them, or shall forcibly rescue any person being lawfully in custody of any officer or other person for any of the said offences, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for such term, not less than seven years, as the court shall adjudge, or to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol or house of correction, for any term not exceeding seven years.

Recited Acts, so far as relate to sending threatening Letters repealed, and Persons sending such Letters, and their Accessories, to be liable to Transportation or Imprisonment.

Remedy to Party injured not taken away.

IV. Provided always, and be it hereby declared, That nothing herein contained shall be construed to alter or affect the remedy given by the said first recited Act to the party damaged, by killing or maiming cattle, or by cutting or destroying trees against the inhabitants of the hundred, but that the same remedy shall remain in as full and ample manner as before the passing of this Act.

7 G. 2. c. 21. repealed.

V. And whereas it is expedient to make better provision for the punishment of persons guilty of offences against the form of an Act made in the seventh year of the reign of his Majesty King *George* the Second, intituled "An Act for the more effectual Punishment of Assaults with Intent to "commit Robbery," and to amend the said Act; be it therefore enacted, That from and after the passing of this Act, the said last recited Act shall be and the same is hereby repealed, save only as to offences committed before the passing of this Act, as to which the said Act shall continue in force; and that from and after the passing of this Act if any person shall maliciously assault any other person with intent to rob such other person; or shall by menaces or by force maliciously demand money, security for money, goods or chattels, wares or merchandize of any other person, with intent to steal the same, or shall maliciously threaten to accuse any

Assaults with Intent to commit Robbery, or threatening to accuse others of Crimes with Intent to extort Money, &c., to be punished by Transportation or Imprisonment.

other person of any crime punishable by law with death transportation or pillory, or of any infamous crime, with a view or intent to extort or gain money, security for money, goods or chattels, wares or merchandize, from the person so threatened; or shall procure, counsel, aid, or abet the commission of the offences or of any of them; every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall be liable, at the discretion of the court, to be transported beyond the seas for life, or for such term, not less than seven years, as the court shall adjudge, or to be imprisoned and kept to hard labour in the common gaol or house of correction, for any term not exceeding seven years.

No. XIII. 4 Geo. IV. c. 54.

(I.)

FORFEITURE, CORRUPTION OF BLOOD, &c.*

* See st. 1. Ed. VI. c. 12. (ante, Class II. No. 18.) s. 17.; 5 and 6 Ed. VI. c. 11. (same Class, No. 20.) s. 9. 13.

[No. I.] 9 Henry III. (Magna Charta) c. 22.—How long Felons' Lands shall be holden by the King.

'WE will not hold the lands of them that be convict of felony but one year and one day, and then those lands shall be delivered to the lords of the fee.'

No. I. 9 Hen. III. c. 22.

[No. II.] 17 Edward II. c. 16.—The King's Prerogative in having the Lands of Felons attainted.

[Inserted Pt. II. Cl. XII. No. 4.]

[No. III.] 31 Edward III. stat. 1. c. 6.—The Lords of Franchises shall have the Fines of Labourers and Servants, &c., forfeited.

[No. IV.] 34 Edward III. c. 12.—There shall be no Forfeitures of Lands for Treason of dead Persons not attainted.*

* At length in Vol. V.

[No. V.] 22 and 23 Charles II. c. 22.—An Act for the better and more certain Recovery of Fines and Forfeitures due to his Majesty.

[Inserted Pt. IV. Cl. XXIII. No. 16.]

[No. VI.] 4 and 5 William and Mary, c. 22.—An Act for regulating Proceedings in the Crown Office in the Court of *King's Bench* at *Westminster*.

[See suprà, C. No. 14.]

[No. VII.] 54 George III. c. 145.—An Act to take away Corruption of Blood save in certain Cases.—[27th *July* 1814.]

'WHEREAS it is expedient to make such provisions by law as are hereinafter contained;' Be it therefore enacted by the King's

No. VII. 54 Geo. III. c. 145.

No. VII. 54 Geo. III. c. 145.

Attainder except for High Treason, &c. not to extend to disinheriting any Heir, &c.

most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That no attainder for felony which shall take place from and after the passing of this Act, save and except in cases of the crime of high treason, or of the crimes of petit treason or murder, or of abetting, procuring or counselling the same, shall extend to the disinheriting of any heir, nor to the prejudice of the right or title of any person or persons other than the right or title of the offender or offenders during his her or their natural lives only; and that it shall be lawful to every person or persons, to whom the right of interest of any lands tenements or hereditaments, after the death of any such offender or offenders should or might have appertained if no such attainder had been, to enter into the same.

(K.)

PARDON.

[No. I.] 2 Edward III. c. 2.—In what Cases only Pardon of Felony shall be granted. Who shall be Justices of Assize, &c.*

* At length in Vol. II.

[No. II.] 10 Edward III. st. 1. c. 2.—Pardons shall not be granted contrary to the Statute of 2 *Edw.* 3. cap. 2.

[No. III.] 14 Edward III. st. 1. c. 15.—No Pardon for Felony, but where the King may do it saving his Oath.

[No. IV.] 27 Edward III. st. 1. c. 2.—In a Pardon of Felony the Suggestions and Suggestor's Name shall be comprised.

[No. V.] 13 Richard II. st. 2. c. 1.—In a Pardon of Murder, Treason, or Rape, the Offence committed shall be specified. The Forfeiture of him at whose Suit such a Pardon is obtained.

[No. VI.] 16 Richard II. c. 6.—A Repeal of the Part of the Statute of 13 *R.* 2. st. 2. c. 1. touching his Forfeiture that obtaineth a Pardon.

[No. VII.] 5 Henry VIII. c. 8.—Every Person that will sue for the King's Pardon granted upon certain Articles, shall have it.

[No. VIII.] 5 William and Mary, c. 13.—An Act to repeal the Statute made in the tenth year of King *Edward* the Third, for finding Sureties for the good abearing, by him or her that hath a Pardon of Felony.

No. VIII. 5 W. & M. c. 13.

'WHEREAS by one Act made at the Parliament holden in the tenth year of the reign of *Edward* the Third, it was amongst other things enacted, That in case the King should grant any charters of pardon, of

'manslaughter, robbery, felonies, and other trespasses against the peace, 'that, within three months after the making the same, they that should 'have the said charters should come and find (before the sheriffs and co- 'roners of the counties where the felonies were done) six good and suffi- 'cient mainpernors for whom the said sheriffs and coroners would answer, 'that they from thenceforth should bear themselves well and lawfully; 'and that the mainprizes should be sealed with their seals, and returned 'into chancery within three weeks after the end of the said three months; 'and that if they that should have such charters would in time to come 'aid themselves thereby, and should not find such mainprizes, or after 'such mainprize found, should bear themselves otherwise against the 'peace than they ought, their charters should be holden for none; which 'statute hath been found very inconvenient, in relation to divers persons 'who have been esteemed fit objects of mercy; and therefore the said 'statute hath been seldom put in practice, but for the most part hath 'been dispensed withal in the charters of pardons that were granted in 'former reigns: And forasmuch as by one Act, made in the first year of 'their now Majesties' reign, intituled, *An Act for declaring the Rights and 'Liberties of the Subject, and settling the Succession of the Crown*, it was 'enacted, That from and after that session of Parliament, no dispensation 'by *non obstante* of or to any statute, or any part thereof, should be 'allowed, but that the same should be held void and of none effect; 'whereby divers of their Majesties' subjects are rendered less capable of 'their Majesties' mercy than before, it being very difficult if not impos- 'sible to find six substantial persons who will adventure to be bound for 'the good behaviour of any person needing a pardon during his life.'

No. VIII. 5 W. & M. c. 13.

10 Ed 3. st. 1. c. 3.

1 W. & M. sess. 2. c. 2.

II. Be it therefore enacted by the King's and Queen's most excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, and by the authority of the same, That the said Act, made in the tenth year of King *Edward* the Third, and every article and clause therein, shall be and are repealed and annulled, and are hereby declared to be repealed and annulled, to all intents and purposes whatsoever: Provided nevertheless, and be it enacted by the authority aforesaid, That if any charter of pardon be pleaded by any person for any felony, the justices before whom such pardon shall be pleaded may, at their discretion, remand or commit such person to prison, there to remain until he or she shall enter into a recognizance, with two sufficient sureties for his or her being of the good behaviour for any time not exceeding seven years. Provided that if any such charter of pardon be pleaded by a feme covert or infant, such feme covert or infant may find two sufficient sureties who shall enter into a recognizance for him or her being of the good behaviour as is aforesaid.

10 Ed. 3. st. 1. c. 3. repealed.

Persons pardoned may be required to give Security for good Behaviour for Seven Years.

[No. IX.] 20 George II. c. 52.—An Act for the King's most Gracious, General, and Free Pardon.*

* This is the last Act of general pardon. Such Acts, in some of the very earlier reigns, particularly those of Elizabeth and James the First, are very frequent.—The exceptions in 20th Geo. II. are so numerous, that it is difficult to find what cases it really embraced, except that of exercising a trade without having served an apprenticeship.

(L.)

MISCELLANEOUS INCIDENTS.

[No. I.] 9 Edward II. stat. 1. c. 10.—They that abjure the Realm shall be in Peace, so long as they be in the Church or Highway.

[No. II.] 9 Edward II. stat. 1. c. 15.—A Clerk fleeing into the Church for Felony, shall not be compelled to abjure.

[No. III.] 9 Edward III. stat. 1. c. 5.—Which Justices shall send their Records and Process determined into the Exchequer.*

* At length, Pt. IV. Cl. I. No. 12.

[No. IV.] 21 Henry VIII. c. 2.—Abjured Persons shall be marked in the right Hand with the sign of an *A*.

[No. V.] 22 Henry VIII. c. 14.—How Persons committing Petit Treason, Murther, or Felony, shall abjure.

[No. VI.] 27 Henry VIII. c. 19.—An Act limiting an Order for Sanctuaries and Sanctuary Persons.

[No. VII.] 32 Henry VIII. c. 12.—An Act concerning Sanctuaries, Privileges of Churches, and Church Yards.

[No. VIII.] 25 George II. c. 36.—An Act for the better preventing Thefts and Robberies, and for regulating Places of Publick Entertainment, and punishing Persons keeping disorderly Houses.

[Inserted Class XXII. No. 10.]

[XI. In prosecutions for felony, court may make orders for payment of the prosecutor's expences; clerk's fee for such order.—County treasurer to pay the order.]

[No. IX.] 27 George II. c. 3.—An Act for the better securing to Constables and others the Expences of conveying Offenders to Gaol; and for allowing the Charges of poor persons bound to give Evidence against Felons.

[Inserted Pt. VI. Cl. IX. No. 2.]

[No. X.] 18 George III. c. 19.—An Act for the Payment of Costs to Parties, on Complaints determined before Justices of the Peace out of Sessions; for the Payment of the Charges of Constables in certain Cases; and for the more effctual Payment of Charges to Witnesses and Prosecutors of any Larceny, or other Felony.*

[Inserted Pt. VI. Cl. IX. No. 2.]

* See Rex *v.* Johnson, 4 M. and S. 515.

END OF VOL. VI.

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